CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Boone, Iowa, 2003.

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 Boone, Iowa.

3. "Clerk" means the city clerk of Boone, 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 Boone, Iowa, 2003.

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

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 "Ordinances" means the ordinances of the City of Boone, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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

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

1.15 DISHONORED CHECK CHARGE. A charge, in an amount established by resolution of the Council, shall be assessed against anyone who pays any fee or charge to the City with a check which is dishonored at the drawer's bank for any reason.

1.16 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon said official by ordinance, provided that, except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, said official shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four (24) hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

1.17 COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is Sunday or a legal holiday, that day shall be excluded.

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CHAPTER 2

CHARTER

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

2.01 PURPOSE. The purpose of this chapter is to provide for a charter embodying the form of government existing on October 2, 1972.

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

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

(Code of Iowa, Sec. 372.4)

2.04 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.

2.05 NUMBER AND TERM OF COUNCIL. The Council consists of two (2) Council Members elected at large and one (1) Council Member from each of five (5) wards as established by this Code of Ordinances, elected for staggered terms of four (4) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

2.07 COPIES ON FILE. The Clerk shall keep an official copy of the charter on file with the official records of the Clerk, shall immediately file a copy with 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. 1223 adopting a charter for the City was passed and approved by the Council on October 2, 1972. Pursuant to an election held November 3, 1987, the terms of the Council Members were changed to staggered four-year terms.

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CHAPTER 3

WARDS

3.01 Division Into Wards **3.02 Precincts as Wards**

3.01 DIVISION INTO WARDS. The City is divided into five (5) wards described as follows:

(Code of Iowa, Sec. 372.4 & 372.13[7])

1. First Ward. All that portion of the City which lies within the area described as *beginning at the intersection of the centerlines of Sixth Street and Marshall Street; thence north to the centerline of Seventh Street; thence west to the centerline of Story Street; then north to the centerline of Fourteenth Street; thence east to the centerline of Marshall Street; thence north to the centerline of Twenty-second Street; thence east to the north quarter corner of Section 22-84-26; thence southerly along the easterly corporation limits to the centerline of Mamie Eisenhower Avenue; thence westerly along the centerline of said Mamie Eisenhower Avenue to the centerline of Linn Street; thence north to the centerline of Fifth Street; thence west to the centerline of Marshall Street; thence north to the centerline of Sixth Street; thence west to the point of beginning*, shall constitute and is denominated the first ward of the City.

2. Second Ward. All that portion of the City which lies within the area described as *beginning at the intersection of the centerlines of Union Street and Marshall Street; thence east to the centerline of South Linn Street; thence north to the centerline of Mamie Eisenhower Avenue; thence easterly along the centerline of said Mamie Eisenhower Avenue to the easterly corporation limits at the center Section 27-84-26; thence southerly along the easterly corporation limits to the south corporation limits at the southeast corner of the northwest fractional quarter of Section 2-83-26; thence west along the south corporation limits to the centerline of South Story Street; thence northerly along the centerline of said South Story Street to the centerline of Hawkeye Drive; thence east to the centerline of South Marshall Street; thence north to the point of beginning*, shall constitute and is denominated the second ward of the City.

3. Third Ward. All that portion of the City which lies within the area described as *beginning at the intersection of the centerlines of Sixth Street and Marshall Street; thence south along the centerline of*

Marshall Street to the centerline of Fifth Street; thence east to the centerline of Linn Street; thence south to the centerline of Union Street; thence west to the centerline of Marshall Street; thence south to the centerline of Primary Road No. U.S. 30; thence west to the centerline of South Story Street; thence south along the centerline of South Story Street to the south corporation limits; thence west to the west quarter corner of Section 4-83-26; thence northerly along the westerly corporation limits to the intersection of the centerlines of South Division Street and Park Avenue; thence north to the centerline of Sixth Street; thence east to the point of beginning, shall constitute and is denominated the third ward in the City.

4. Fourth Ward. All that portion of the City which lies within the area described as *beginning at the intersection of the centerlines of Sixth Street and Marshall Street; thence west to the centerline of Division Street; thence north to the centerline of West Tenth Street; thence west to the centerline of State Street; thence north to north corporation limits at the centerline of West Twelfth Street; thence northeasterly along the northwesterly corporation limits to the centerlines of Division Street and Twenty-second Street; thence east to the centerline of Marshall Street; thence south to the centerline of Fourteenth Street; thence west to the centerline of Story Street; thence south to the centerline of Seventh Street; thence east to the centerline of Marshall Street; thence south to the point of beginning*, shall constitute and is denominated the fourth ward in the City.

(Subsections 1-4 - Ord. 2173 – May 12 Supp.)

5. Fifth Ward. All that portion of the City which lies within the area described as *beginning at the intersection of the centerlines of West Tenth Street and Division Street; thence south to the south corporation limits; thence westerly along the southerly corporation limits to the southwest corner of the southeast quarter of the southeast quarter of Section 30-84-26; thence north to the centerline of West Twelfth Street; thence east to the centerline of State Street; thence south to the centerline of West Tenth Street; thence east to the point of beginning*, shall constitute and is denominated the fifth ward in the City.

3.02 PRECINCTS AS WARDS. Each ward shall consist of one precinct.

(Ord. 2173 – May 12 Supp.)

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

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

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

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

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

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

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

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

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

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

1. Standard Civil Penalties.

   A. First Offense - Not to exceed $750.00

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

(Ord. 2000 – Aug. 03 Supp.)

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

2. Special Civil Penalties.

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

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

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

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

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

   C. Any violation of the restrictions prohibiting blowing grass, leaves or snow into the street, “open burning”, curfew as defined in Chapter 46, or placing signs in the public right-of-way shall carry the following penalties:

      (1) Second offense – $75.00 fine

      (2) Third offense – $300.00 fine

      (3) Fourth and subsequent offenses – $750.00 fine

   Each day that a violation occurs or is permitted to exist constitutes a repeat offense. ***(Ord. 2211 – Dec. 14 Supp.)***

D. Any violation of "Chapter 48-Social Host Regulations" shall carry a penalty of $250 for the first offense and $500 for each subsequent offense within 2 years. ***(Ord. 2161 – May 11 Supp.)***

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. 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 if service cannot be made by either method, by posting a notice in a conspicuous place on the property and 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 filed with the Clerk of the District Court. After filing the citation with the Clerk of the District Court, the City shall also file a copy of the citation in the office of the County Treasurer. If the petition is later amended to include other parties or other lands, the amended citation shall be similarly filed. 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, to include the street address and legal description of any real property, 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.

(Ord. 2167 – May 11 Supp.)

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

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

4.06 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the

violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means. All criminal violations, other than traffic citations, shall carry a penalty not in excess of the maximum fine and a term of imprisonment for simple misdemeanors as provided under §903.1(1)(a), Code of Iowa.

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

(Ord. 2155 – May 10 Supp.)

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 Removal of Elected Officials
5.11 Vacancies
5.12 Gifts
5.13 Residency Requirement

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 Boone as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

5.03 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 contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive

bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

(Code of Iowa, Sec. 362.5[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 fifteen hundred dollars ($1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[10])

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])

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

(Code of Iowa, Sec. 362.5[13])

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 REMOVAL OF ELECTED OFFICERS. The Council shall have the power to remove any City officer elected by the people from office after hearing on written charges filed with the Council and for any cause which would be grounds for an equitable action for removal in the District Court, but such removal shall only be made by a two-thirds (2/3) vote of the entire Council. Whenever any such charges are filed with the Council, a notice shall be served upon the accused at least ten (10) days before the hearing thereof, and the accused shall have the right to be heard and have counsel and produce testimony in his or her own behalf. The proceedings shall be, so far as applicable, in accordance with the practice in civil proceedings in the District Court. Upon any question arising for decision, the question shall be entered on record together with the vote thereon, which shall be by yeas and nays. Upon the final issue, the question shall be, "Shall the accused be removed from office?" The Council shall have jurisdiction and authority to proceed with and conclude any such trial and decide the case, which decision shall be final and binding. Upon the final decision of any case, the Clerk shall be directed to enter judgment in the case in accordance with the Council's decision. All processes issued in such proceedings shall be served by the Police Chief.

5.11 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])

5.12 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)

5.13 RESIDENCY REQUIREMENT.

1. The position of City Administrator is based on contract which requires the person in that position must live within the corporate limits of the City.

2. Anyone holding the following positions is considered an emergency employee and must live within ten (10) miles of the corporate limits of the City: ***(Ord. 1992 – Aug. 03 Supp.)***

Police Chief	Fire Chief
Assistant Police Chief	Assistant Fire Chief
Police Captain	Fire Captain
Police Officer	Fire Fighter

3. Anyone holding the following positions is considered a non-emergency employee and must live within twenty (20) miles of the corporate limits of the City:

City Clerk	Plant Operator Water/Sewer	Utilities Foreman
Deputy City Clerk	Assistant Superintendent Water	Street Department Foreman
Records Secretary	Assistant Superintendent Wastewater	Meter Department Foreman
Billing/Payroll Clerk	Dispatchers	Street Department Laborer
Office Supervisor	Building Official	Meter Maintenance
City Hall Custodian	Assistant Building Official	Assistant Public Works Director
Library Director	Director of Streets and Utilities	All other employees not mentioned
Park Director	Utility Superintendent	

4. Any employee who was living outside the limits described in subsection 3 on or before December 31, 1986, may continue to live at his or her present location.

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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 twenty-five (25) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

INDUSTRIAL PROPERTY TAX EXEMPTIONS

7.01 Purpose
7.02 Definitions
7.03 Period of Partial Exemption
7.04 Amounts Eligible for Exemption
7.05 Limitations
7.06 Applications
7.07 Approval
7.08 Exemption Repealed
7.09 Dual Exemptions Prohibited

7.01 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.

7.02 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.

7.03 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)

7.04 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%)

7.05 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)

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

7.07 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)

7.08 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)

7.09 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 8

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
1651	1989	Southeast Boone Urban Renewal Area
1707	1991	Northeast Boone Urban Renewal Area
1753	1993	Amendment No. 2 to the Southeast Boone Urban Renewal Area
1767	1993	Amendment No. 3 to the Southeast Boone Urban Renewal Area
1872	1998	Amendment No. 4 to the Southeast Boone Urban Renewal Area
2026	May 17, 2004	Boone Southwest Urban Renewal Area
2078	April 17, 2006	Amendment No. 5 to the Southeast Boone Urban Renewal Area
2084	September 18, 2006	West Central Boone Urban Renewal Area
2171	May 2, 2011	Amendment No. 6 to the Southeast Boone Urban Renewal Area
2191	June 17, 2013	Amendment No. 8 to the Southeast Boone Urban Renewal Area
2192	June 17, 2013	South Boone Housing Urban Renewal Area

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CHAPTER 9

URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
1770	1994	West Boone Residential Revitalization Area
2170	May 2, 2011	Boone Urban Revitalization 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 (except for supervisory duties delegated to the City Administrator), 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 Mayor Pro Tem and shall also appoint, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Library Board of Trustees
2. Historical Preservation Commission
3. Civil Service Commission
4. Human Services Committee
5. Boone Area Summer Swim Team Board
6. Director of Emergency Management
7. Zoning Board of Adjustment
8. Planning and Zoning Commission
9. Economic Development Committee
10. Fair Housing Board

15.04 COMPENSATION. The salary of the Mayor is eight hundred dollars ($800.00) per month, paid in semi-monthly installments.

(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)

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CHAPTER 16

MAYOR PRO TEM

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

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

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

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

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

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

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

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

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

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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 two (2) Council Members elected at large and one Council Member from each of five (5) wards as established by the Code of Ordinances, elected for overlapping terms of four (4) years.

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 Administrator
2. City Clerk/Finance Officer
3. City Attorney
4. Police Chief
5. Fire Chief
6. Airport Commission
7. Board of Electrician Examiners
8. Board of Plumber Examiners
9. Board of Mechanical Examiners

17.06 COMPENSATION. The salary of the Council members is one hundred fifty dollars ($150.00) per month, paid monthly. The salary of the Mayor Pro Tem is one hundred seventy-five dollars ($175.00) per month, paid monthly. Effective January 1, 2008, the salary of the Council members will be two hundred twenty-five dollars ($225.00) per month, paid monthly. The salary of the Mayor Pro Tem will be two hundred fifty dollars ($250.00) per month, paid monthly. ***(Ord. 2097 – Aug. 07 Supp.)***

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

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CHAPTER 18

CITY TREASURER/FINANCE OFFICER

18.01 Appointment
18.02 Compensation
18.03 Duties

18.01 APPOINTMENT. The City Treasurer/Finance Officer shall be appointed by the City Council, upon recommendation by the City Administrator/Clerk, by a majority vote of the Council. All references to City Treasurer shall mean "City Treasurer/Finance Officer". The Treasurer/Finance Officer shall perform all functions required as set forth herein.

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

18.02 COMPENSATION. The City Treasurer/Finance Officer shall receive such compensation as established by resolution of the City Council.

18.03 DUTIES. The duties of the Treasurer/Finance Officer are as follows:

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

1. Duties of Treasurer:

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

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

   C. 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.

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

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

   F. 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.

   G. 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.

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

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

2. Duties of Finance Officer:

A. Maintains payroll records in order to provide accurate compensation of employees by entering data into computer terminal, verifying deductions, and printing checks, prepares a variety of personnel and insurance reports including FICA, IPERS, Workers Compensation, and unemployment records; prepares W2s and issues to employees, submits appropriate reports to federal and state agencies.

B. Processes monthly bills for approval of City Council by entering invoices into computer, verifying totals and running printouts for approval; prints checks and mails with statement; enters amounts of manual checks into computer.

C. Enters revenues into computer and checks totals against bank statement and deposit slips using calculator; enters investment changes and transfers into computer; receives all cancelled checks, sorts by numerical order, and enters into computer; generates list of outstanding checks and prints.

D. Prepares monthly expenditure reports for departments and distributes to the various departments and City Administrator; prepares Treasurer's report by running cash balance report, verifying with bank statements and reconciling accounts and balance; makes copies for Administrator/Clerk, Mayor, Council and Auditor.

E. Prepares essential forms for county and state agencies, invests all City funds by locating the best interest rate offered by local banks and writing the check; records and files payments and revenues from grants.

F. Prepares several annual reports for different sources such as the Road Use Tax Report and the budget reports.

G. Prepares and mails special assessment notices; maintains records of clothing allowance expenditures for police officers and public works employees.

H. Performs other necessary financial duties as necessary. Attends all Council meetings.

(Ch. 18 - Ord. 2023 – Sep. 04 Supp.)

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CHAPTER 19

DEPUTY CLERK

19.01 Purpose
19.02 Appointment
19.03 Compensation
19.04 Duties

19.01 PURPOSE. The purpose of this chapter is to create the position of Deputy Clerk.

19.02 APPOINTMENT. The Deputy Clerk shall be appointed by the City Administrator/Clerk, subject to the approval of the City Council.

19.03 COMPENSATION. The Deputy Clerk shall receive such annual salary and benefits as the Council shall from time to time determine by resolution, and payment shall be made from the treasury of the City, in the manner provided for the payment of compensation and allocation of benefits to other officers and employees of the City.

19.04 DUTIES. The Deputy Clerk shall have the following duties:

1. Perform a variety of record keeping activities for the City, such as preparing the agenda, and attending and recording minutes of each City meeting; publish documents for public information, such as Council meeting minutes, ordinances, and public hearings; and maintain permanent records of Council meetings, Council committee meetings and separate Commission and Board meetings.

2. Record and file easements, ordinances, and alley vacations; prepare all assessments and file with the Country Treasurer's office; notify property owners of assessments and public hearings.

3. Type a wide variety of documents for the various departments of the City and provide clerical support to the Mayor, City Administrator/Clerk and Director of Economic Development.

4. Operate photocopy machine to copy agendas for meetings, minutes from meetings, and any other paperwork or forms needed.

5. Assist in researching questions to furnish information on many issues to the Mayor, the City Council, the City Attorney and the City Administrator.

6. Answer the phone, provide information requested by caller and transfer calls to appropriate parties.

7. Perform other office maintenance duties, deal directly with public by handling telephone calls, and file documents and correspondence.

8. Submit and process alcohol, beer and wine license applications.

9. Have the powers and duties to act in the absence or inability of the City Administrator/Clerk.

10. Have the authority to sign documents in the absence or inability of the City Administrator/Clerk.

(Ch. 19 - Ord. 2060 – Sep. 05 Supp.)

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
20.09 Representation of City Employees

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

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

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

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

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

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare only those ordinances which the Council desires and directs to be prepared by the City Attorney and shall report to the Council upon all other 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, members of the Council individually, municipal boards or the head of any municipal department.

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

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

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

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

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

20.09 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

CITY ADMINISTRATOR/CLERK

21.01 Purpose
21.02 Objectives
21.03 Qualifications
21.04 Terms of Employment
21.05 Compensation
21.06 Duties
21.07 Office Restrictions
21.08 Spending Authority

21.01 PURPOSE. The purpose of this chapter is to create a position of City Administrator/Clerk for the City.

21.02 OBJECTIVES. The objectives of the office of City Administrator/Clerk are as follows:

1. To provide for the efficient and effective management of all facets of Boone City government under the control and jurisdiction of the Council;

2. To provide optimum coordination, communication and cooperation between and among City departments, boards and commissions, and City staff under the control and jurisdiction of the Council;

3. To promote efficient, fair and equitable personnel management and administration;

4. To establish and maintain governmental organization which will support and promote retail, industrial and other economic development; and

5. To provide for the systematic and orderly flow of information to and from the Council, its department heads and staff and citizens of the community.

21.03 QUALIFICATIONS. The City Administrator/Clerk shall be a person competent by education and/or experience, as determined by the City Council, to perform the duties imposed upon such person by this chapter. The City Administrator/Clerk:

1. Shall, following appointment, reside at a location to be approved by the City Council;

2. Shall devote full time to the diligent and faithful performance of duties hereunder and shall not, during the term as City

Administrator/Clerk, engage in any other employment or self-employment activities or endeavors or hold any other office or position, except with the approval of the Council, by motion; and

3. Shall not, during the term as City Administrator/Clerk, hold any position as officer or director of any "for-profit" organization which does business or carries on any activities in the City, and the City Administrator/Clerk shall not own more than five percent (5%) of the outstanding stock of any corporation which does business or carries on activities within the City.

(Ord. 2112 – Feb. 08 Supp.)

21.04 TERMS OF EMPLOYMENT. The City Administrator/Clerk shall be hired pursuant to the terms and conditions of an employment contract approved by the City Council. Said contract shall incorporate all duties as set forth in Section 21.06 by reference as if set forth in full therein.

(Ord. 2118 – Feb. 08 Supp.)

21.05 COMPENSATION. The City Administrator/Clerk shall receive a salary and benefit package as set forth in the employment contract as approved by the City Council. ***(Ord. 2118 – Feb. 08 Supp.)***

21.06 DUTIES. The duties of the City Administrator/Clerk are as follows:

1. Administrator Duties:

A. Supervise enforcement and execution of all City ordinances and resolutions and applicable State and Federal laws and regulations within the City.

B. Attend all meetings, whether regular or special, of the Council unless excused by the Mayor or majority of the Council members.

C. Recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.

D. Generally supervise and direct the administration of the City government.

E. Supervise and conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.

F. Supervise the performance of all contracts for work to be done for the City, supervise all purchases of material and supplies and insure that such material and supplies are received and are of the quality and character called for by the contract.

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

H. Be directly responsible to the Council for the administration of the City as directed by the Council. All City departmental administration requiring the attention of the Council shall be brought before the Council by the Administrator. Council involvement in administration initiated by the Council must be coordinated through the Administrator.

I. Supervise and direct through established procedures all officers, departments and employees of the City, specifically including but not limited to, police, fire, water plant, streets, sewers, water pollution facilities, waste disposal and central administration. To effectuate this responsibility, the City Administrator shall have the power and authority to employ such assistants and other employees of the City for which the Council has approved the position generally.

J. Represent the City, as directed by the Council, in all negotiations and relations with employees, contractors, consultants, other governmental units, and civic organizations in which the City may have an interest.

K. Cooperate with, assist and advise all administrative agencies, City boards and commissions and act as the Council's liaison and representative to such entities.

L. Investigate the affairs and conduct of any department agency, officer or employee of the City, as deemed appropriate.

M. Keep the Council fully advised of the financial and other conditions of the City and of its future needs.

N. Supervise and assist City boards, commissions and all City departments in the preparation of and administration and operation of the City's annual budget.

O. Make to the Council periodic reports of the general condition of the City in writing at such intervals as the Council directs.

P. Advise, assist and consult with the City Attorney on all City legal matters.

Q. Assist and supervise the issuance of all licenses and permits and provide for and cause the records to be kept of the issuance and revocation of such licenses and permits. Council approval prior to issuance shall be obtained when required by ordinance or statute.

R. Insure that all necessary and proper records required by ordinance, State or Federal law or regulation are properly maintained.

S. Formulate and recommend employment and personnel policies, compensation schedules and benefits with the approval of the Council and to cooperate and assist the City Attorney/City Negotiator in all matters relating to collective bargaining.

T. Compile and maintain current and up-to-date information regarding all funding sources of the City, including State and Federal grant and loan programs; plan, develop, prepare and submit, with the approval and at the direction of the Council, applications for grants, loans and other sources of funding and administer all such funding.

U. Make recommendations to the Council and participate in projects and endeavors to support and promote economic growth and development in the City.

V. Faithfully represent the Council and the City in inter-governmental relations.

W. Perform such other duties as the Mayor or Council may direct.

X. Have the power to employ, reclassify, discipline or suspend any employee under the Administrator's direct control, and have the power to employ, reclassify, discipline, suspend or discharge any employee under the supervision and control of any department head, but only with the concurrence of the department head. The City Administrator shall not have the authority to employ or appoint, reclassify, discipline, suspend or discharge, without Council approval, the Police Chief, the Fire Chief, the Director of Water Plant, the Director of Water Pollution Control,

the Director of Streets and Utilities, the Building Official, Finance Officer, Treasurer, Administrative Assistant or the City Attorney. However, the City Administrator shall, when appropriate, recommend to the Council action regarding such appointed officers or employees of the City and shall also recommend to and seek direction from the Council when the Administrator and a department head are not in agreement in regard to the employment, reclassification, suspension, discipline or discharge of a City employee.

2. Clerk Duties:

A. 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.

B. 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.

C. 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.

(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.

D. Shall authenticate all measures except motions with the Clerk's signature, certifying the time and manner of publication when required.

E. 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.

F. 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.

(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.

(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.

(4) Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under his or her 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.

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

G. At the direction of the Council, shall attend meetings of committees, boards and commissions and shall record and preserve a correct record of the proceedings of such meetings.

H. 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.

I. 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.

J. 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.

(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.

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

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

(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.

K. Maintain custody of the City seal and shall affix said seal to all transcripts, orders and certificates which it may be necessary to authenticate.

21.07 OFFICE RESTRICTIONS. The City Administrator/Clerk shall not take part in any City election except by casting his or her vote, and shall not endorse a City elected official for any City office or employment.

(Ch. 21 - Ord. 2023 – Sep. 04 Supp.)

21.08 SPENDING AUTHORITY.

1. The City Administrator/Clerk shall have authority to approve the spending of up to $24,999.00 for any budgeted items. Purchases of $25,000.00 or more must be made only with Council approval. The City Administrator/Clerk shall be given authority to spend $5,000.00 or less for any non-budgeted items and must have prior approval from the Policy and Administration Committee for spending anything over $5,000.00 for a non-budgeted item.

2. The City Administrator/Clerk may spend $25,000.00 or less for any emergency purchases. "Emergency purchases" are those purchases that will cause more extensive costs or damages if the proposed purchase is not authorized quickly or during natural or other disasters. All emergency purchase decisions will be presented to the Mayor when possible for consultation on the need to make the purchase. A detailed description of any emergency purchase will be made to the Policy and Administration Committee at their next regularly scheduled meeting.

(Ord. 2056 – Sep. 05 Supp.)

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library
22.02 Library Trustees
22.03 Qualifications of Trustees
22.04 Organization of the Board
22.05 Powers and Duties
22.06 Contracting with Other Libraries
22.07 Nonresident Use
22.08 Expenditures
22.09 Annual Report
22.10 Injury to Books or Property
22.11 Theft
22.12 Notice Posted

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of eight (8) 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.

22.03 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.

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from three (3) consecutive regular meetings of the Board, except in the case of 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. ***(Ord. 2012 – Apr. 04 Supp.)***

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

22.05 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.

22.06 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.

22.07 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.

22.08 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. In the event either the President or Secretary are unavailable, any two other members of the Board may sign. The warrant-writing officer is the Board Secretary or Treasurer. ***(Ord. 2037 – Jan. 05 Supp.)***

(Code of Iowa, Sec. 384.20 & 392.5)

22.09 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.

22.10 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)

22.11 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)

22.12 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 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of nine (9) members, seven (7) of whom are residents of the City. The resident members shall be appointed by the Mayor, subject to approval by the Council, and shall not hold any elective office in the City government. The additional two members of the Commission are one member of the County Board of Supervisors and one resident of the area outside the City over which the zoning jurisdiction of the City has been extended, both appointed by the County Board of Supervisors.

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

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. All appointees from within the City shall serve staggered terms. The appointees from the two-mile extended area shall serve non-staggered terms.

(Code of Iowa, Sec. 392.1)

23.03 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)

23.04 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)

23.05 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 24

BOARD OF PARK COMMISSIONERS

24.01 Election And Term
24.02 Qualifications
24.03 Organization
24.04 Compensation
24.05 Accounting and Expenditures
24.06 Powers

24.01 ELECTION AND TERM. A Board of Park Commissioners is established, to consist of five (5) members elected at large from the City during regular municipal elections. All terms shall be for four (4) years, with the present incumbents continuing to serve in their positions until their current terms expire. All terms shall be staggered and all terms shall begin on January 1 of each year following the election as Commissioner.

(Ord. 2021 – Sep. 04 Supp.)

24.02 QUALIFICATIONS. All of the members of the Board shall be bona fide citizens and residents of the City and shall be over the age of eighteen (18). The position of a Commissioner shall be vacant if that Commissioner moves permanently from the City or submits a resignation. Vacancies in the Board shall be filled by appointment of the Mayor, with approval of the Council. The appointed Commissioner shall fill the term for the unexpired term or until the next general municipal election is held, whichever occurs first.

24.03 ORGANIZATION. The Board shall hold regular monthly meetings and special meetings as necessary. The Board shall organize by electing a Chairperson and Secretary from its membership and keep a record of its proceedings, a copy of which shall be delivered to the Clerk for filing.

24.04 COMPENSATION. The members shall receive compensation of two hundred sixty dollars ($260.00) for each calendar year they serve, to be paid $65.00 in March, June, September, and December.

(Ord. 2200 – Dec. 14 Supp.)

24.05 ACCOUNTING AND EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the City parks, municipal swimming pool, Linwood Park Cemetery, and street trees shall be set aside in accounts for the appropriate functions of the Park Commission. Expenditures of these accounts shall be paid for only on orders of the Board, signed by at least two (2) members.

24.06 POWERS. The Board has the following powers:

1. To employ a Director of Parks and authorize the Director to employ such assistants and employees as may be necessary for the

proper management of the City parks, municipal swimming pool, Linwood Park Cemetery, and street trees.

2. To fix the compensation of the Director of Parks, assistants and employees.

3. To remove, by vote of the board, the Director of Parks and provide procedures for the removal of assistants or employees for a conviction of a crime which reflects on the person's ability or performance of duties; incompetence or inattention to duties, subject, however, to the provisions of the Code of Iowa.

4. To have exclusive control of the expenditures of all funds allocated for park purposes by the Council, and of all moneys available by gift and all other moneys belonging to the parks, including all fees and rentals collected under the rules of the Board.

5. To accept gifts of real property, personal property, or mixed property; receive devises and bequests, including trust funds; to take the title to said property in the name of the City for park purposes; to dispose of real property pursuant to the Code of Iowa, upon passage of a resolution by the Council; and to expend the funds received by them from such gifts for the improvements of the City parks.

6. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City parks.

7. To acquire real estate for park purposes, either within or without the City.

8. To establish rules and regulations, in writing, for the maintenance and government of all parks and public grounds under its jurisdiction and control and post a copy of the same at the principal entrance to such parks or public grounds.

9. To diligently prosecute any person or person guilty of a willful violation of the park rules and regulations or guilty of violating the City ordinances or the statutes of the State.

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CHAPTER 25

CIVIL SERVICE COMMISSION

25.01 Purpose
25.02 Appointment and Term
25.03 Qualifications
25.04 Human Rights Commission
25.05 Compensation
25.06 Chairperson
25.07 Clerk
25.08 Records
25.09 Rooms and Supplies
25.10 Powers and Duties

25.01 PURPOSE. The purpose of this chapter is to provide for the appointment, powers and duties of a Civil Service Commission in accordance with the requirements of State law.

25.02 APPOINTMENT AND TERM. A Civil Service Commission consisting of three (3) members shall be appointed by the Mayor with the approval of the Council for staggered terms of four (4) years.

(Code of Iowa, Sec. 400.1)

25.03 QUALIFICATIONS. Commissioners must be citizens of Iowa, eligible electors and residents of the City preceding their appointment. No person while on said Commission shall hold or be a candidate for any office of public trust.

(Code of Iowa, Sec. 400.2)

25.04 HUMAN RIGHTS COMMISSION. Notwithstanding the provisions of Section 25.03, when a human rights commission has been established, the director thereof shall ex officio be a member, without vote, of the Civil Service Commission.

(Code of Iowa, Sec. 400.2)

25.05 COMPENSATION. Civil Service Commissioners shall serve without compensation.

(Code of Iowa, Sec. 400.2)

25.06 CHAIRPERSON. The Commission shall elect a Chairperson from among its members.

(Code of Iowa, Sec. 400.4)

25.07 CLERK. The Clerk shall be clerk of the Commission.

(Code of Iowa, Sec. 400.4)

25.08 RECORDS. The Civil Service Commission shall keep a record of all its meetings and also a complete individual service record of each civil service employee which record shall be permanent and kept up to date.

(Code of Iowa, Sec. 400.4)

25.09 ROOMS AND SUPPLIES. The Council shall provide suitable rooms in which the Commission may hold its meetings and supply the Commission with all necessary equipment and a qualified shorthand reporter or an electronic voice recording device to enable it to properly perform its duties.

(Code of Iowa, Sec. 400.5)

25.10 POWERS AND DUTIES. The Commission shall administer the civil service procedure as contained in Chapter 400, Code of Iowa, and amendments thereto and shall have, exercise and perform all powers and duties as provided thereby.

CHAPTER 26

AIRPORT COMMISSION

26.01 Airport Commission
26.02 Appointment and Term
26.03 Vacancies
26.04 Compensation
26.05 Bond
26.06 Officers
26.07 Powers and Duties
26.08 Annual Report

26.01 AIRPORT COMMISSION. There shall be an Airport Commission consisting of five (5) resident voters of the City.

(Code of Iowa, Sec. 330.20)

26.02 APPOINTMENT AND TERM. Commissioners shall be appointed by the Council for staggered terms of six (6) years.

(Code of Iowa, Sec. 330.20)

26.03 VACANCIES. Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.

(Code of Iowa, Sec. 330.20)

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

(Code of Iowa, Sec. 330.20)

26.05 BOND. Each Commissioner shall execute and furnish a bond in the amount of one thousand dollars ($1,000.00), the cost of which shall be paid from the General Fund, which bond shall be filed with the Clerk.

(Code of Iowa, Sec. 330.20)

26.06 OFFICERS. The Commission shall elect from its own members a Chairperson and Secretary who shall serve for such term as the Commission shall determine.

(Code of Iowa, Sec. 330.20)

26.07 POWERS AND DUTIES. The Commission shall have and exercise the following powers and duties.

1. General. The Commission has all the powers in relation to airports granted to cities under State law except powers to sell the airport.

(Code of Iowa, Sec. 330.21)

2. Budget. The Commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the Council may include all or a portion of said amount in its budget.

(Code of Iowa, Sec. 330.21)

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the Commission for the purposes prescribed by law, and shall be deposited with the Treasurer or City Clerk to the credit of the Airport Commission, and shall be disbursed only on the written orders of the Airport Commission, including the payment of all indebtedness arising from the acquisition and construction of airports and the maintenance, operation, and extension thereof.

(Code of Iowa, Sec. 330.21)

26.08 ANNUAL REPORT. The Airport Commission shall immediately after the close of each municipal fiscal year, file with the City Clerk a detailed and audited written report of all money received and disbursed by the Commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

(Code of Iowa, Sec. 330.22)

CHAPTER 27

HISTORIC PRESERVATION COMMISSION

27.01 Definitions
27.02 Boone Historic Preservation Commission
27.03 Powers of the Commission

27.01 DEFINITIONS. For use within this chapter the following are defined:

1. "Commission" means the Boone Historic Preservation Commission, as established by this chapter.

2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possesses integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:

A. Embodies the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possesses high artistic value, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or

C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials, or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area; or

D. Is associated with the lives of persons significant in our past; or

E. Has yielded, or may be likely to yield, information important to prehistory or history.

3. "Historic Site" means a structure or building which:

A. Is associated with events that have made a significant contribution to the broad patterns of our history; or

B. Is associated with the lives of persons significant in our past; or

C. Embodies the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant

and distinguishable entity whose components may lack individual distinction; or

D. Has yielded, or may be likely to yield, information important to prehistory or history.

27.02 BOONE HISTORIC PRESERVATION COMMISSION.

1. The Commission shall initially consist of five (5) members who shall be residents of the City.

2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.

3. The Commission members are appointed for staggered terms of three (3) years, to begin on January 1 following the year of appointment.

4. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.

5. Members may serve for more than one term and each member shall serve until the appointment of a successor.

6. Members shall serve without compensation.

7. A simple majority of the Commission shall constitute a quorum for the transaction of business.

8. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission's proceedings.

9. The Commission shall meet at least three (3) times a year.

27.03 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter, with Council approval. (The necessary inventory forms and procedures for this completion are available from the State Bureau of Historic Preservation.) The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.

2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.

4. In addition to those duties and powers specified above, the Commission may, with Council approval:

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.

B. Acquire by purchase, bequest, or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.

C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission.

D. Lease, sell and otherwise transfer or dispose of historic properties, subject to rights of public access and other covenants, and in a manner that will preserve the property.

E. Contract, with the approval of the Council, with the State or Federal government or other organizations.

F. Cooperate with the Federal, State and local governments in the pursuance of the objectives of historic preservation.

G. Provide information for the purpose of historic preservation to the Council.

H. Promote and conduct an educational and interpretative program on historic properties within its jurisdiction.

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CHAPTER 28

HUMAN SERVICES COMMITTEE

28.01 Purpose
28.02 Membership Of Committee
28.03 Tenure of Members
28.04 Officers to be Selected
28.05 Subcommittee Structure
28.06 Bylaws
28.07 Duties and Responsibilities
28.08 Committee Termination

28.01 PURPOSE. The Human Services Committee has as its purpose the job of analyzing requests for funding of agencies determined to be "human service" agencies and making recommendations for funding to the Council, which holds the ultimate power of approval. A "human service agency" is defined as an agency that provides services to the citizens of the City who are experiencing personal economic or social problems. The agency's primary purpose should be to help individuals and families become self-sufficient and productive, to help them with problems, and to improve the well-being of the citizens of the City. The agencies should meet the basic human needs such as food, shelter, clothing, utilities, transportation, counseling, education, legal aid, rehabilitation of persons and health, and support basic needs services in the community. The Committee must maintain, as its primary goal, to direct the funds toward the greatest number of citizens possible, and assist certain other human service agencies. Thus the focus of the Committee should be on the "people" programs.

28.02 MEMBERSHIP OF COMMITTEE. The committee shall consist of no less than five (5) members. Each member shall be chosen by the Mayor and approved by the Council. No member may be an officer or employee of any agency seeking approval for funding. One (1) member of the committee shall be a Council member with all the other members serving voluntarily.

28.03 TENURE OF MEMBERS. All members shall serve three-year staggered terms to insure continuity. Any vacancy created would be filled by an immediate appointment to fill any unexpired term. No member shall serve more than two (2) consecutive terms (6 years).

28.04 OFFICERS TO BE SELECTED. The Committee shall choose members to serve as Chairperson, Vice Chairperson, and Secretary on a yearly basis. Each officer will serve for one (1) year. The Chairperson should serve no more than two (2) consecutive terms. The Council person member shall not serve as an officer. All vacancies should be filled immediately by the Committee as a whole.

28.05 SUBCOMMITTEE STRUCTURE. The Committee may create subcommittees to assist it in its duties. However, subcommittees may not

assume primary advisory board responsibilities. All ultimate recommendations for approval and actual funding must come from the entire committee, not a subcommittee.

28.06 BYLAWS. The Committee may pass bylaws to assist in its operation. However, all bylaws or amendments thereto must be approved by the Council prior to approval and enactment by the Committee.

28.07 DUTIES AND RESPONSIBILITIES. The Committee shall have the following duties and responsibilities:

1. Create a structure for review of applications for funding. The structure shall be approved by the Council before implementation of the review process.

2. Require all requesting agencies to present Articles of Incorporation or charter documents where appropriate.

3. Require all requesting agencies to present financial documentation for the past year, where possible, and a budget projection for the period for which funds are being sought.

4. Organize funding hearings and approval hearings at separate times consistent with the timetable for City budgeting procedures. There shall be appeal procedures established for those agencies denied funding.

5. Require agencies to submit audited financial reports or other documents evidencing financial responsibility as a requirement for continued funding.

6. Require agencies receiving funding to meet at least once a year solely as a means to respond to new circumstances and respond in writing as to its self-analysis, goals, program changes and proposed expansion of services.

7. Analyze every requesting agency to determine if any duplication of services or overlapping services exist.

28.08 COMMITTEE TERMINATION. The Council may at any time dissolve the Human Services Committee when it feels there is no further need for its continued existence.

CHAPTER 29

BOONE AREA SUMMER SWIM TEAM BOARD

29.01 Purpose
29.02 Membership
29.03 Tenure of Members
29.04 Officers to be Selected
29.05 Duties and Responsibilities
29.06 Board Termination

29.01 PURPOSE. The Boone Area Summer Swim Team Board has as its purpose the job of supervising, advising, controlling and regulating the summer swim team program of the Boone Municipal Pool during its regular season. The Board shall also recommend and establish policies regarding the summer swim team program and advise the Council on all areas involving the program.

29.02 MEMBERSHIP. The Board shall consist of five (5) members. Each member shall be appointed by the Mayor and approved by the Council.

29.03 TENURE OF MEMBERS. All members are appointed for staggered terms of three (3) years. Any vacancy created would be filled by an immediate appointment to fill any unexpired term. No members shall serve more than two (2) consecutive terms (6 years).

29.04 OFFICERS TO BE SELECTED. The Committee shall choose members to serve as Chairperson, Vice Chairperson and Secretary on a yearly basis. Each board officer will serve for one (1) year. The Chairperson should serve no more than two (2) consecutive terms. All vacancies should be filled immediately by the Board as a whole.

29.05 DUTIES AND RESPONSIBILITIES. The Board shall have the following duties and responsibilities:

1. Establish a written policy and procedures for the administration of the swim team program.

2. Make all decisions regarding expending the budgeted amounts for the program and make any necessary purchases as authorized by the budgeted amounts.

3. Establish a chain of command regarding decisions at the pool location.

4. Establish a schedule for all competitions and coordinate the same with the pool management.

5. Establish a procedure regarding any disputes over scheduling, qualifications and criteria for participation in any competitive event.

6. Establish rules to be followed in all competitive events.

29.06 BOARD TERMINATION. The Council may at any time dissolve the Board when it feels there is no further need for its continued existence.

CHAPTER 30

ECONOMIC DEVELOPMENT COMMITTEE

30.01 Creation
30.02 Powers and Duties
30.03 Appointment
30.04 Supervision
30.05 Funding

30.01 CREATION. There is created and established in and for the City an Economic Development Committee.

30.02 POWERS AND DUTIES. The Committee has all the powers which are conferred by the Code of Iowa, and the Committee shall have the following powers and perform the following duties:

1. Collect and disburse, by correspondence, advertising and other means, information relating to the industrial, commercial, manufacturing, residential, educational and other advantages and resources of the City.

2. Encourage and promote the establishment and development of industries and manufacturing, commercial and other interests in the increase of the population of the City.

3. Investigate, promote and do such things as may be deemed necessary or expedient for the general welfare of the City and its inhabitants.

4. Advise and direct the Director of Economic Development.

Any additional duties may be prescribed by resolution of the Council.
(Ord. 2057 – Sep. 05 Supp.)

30.03 APPOINTMENT. The Mayor shall appoint three (3) members of the City Council to the Committee. Only one member of the Economic Development Committee may also be a member of the Policy and Administration Committee. ***(Ord. 2057 – Sep. 05 Supp.)***

30.04 SUPERVISION. The Committee shall be at all times under the supervision of the Council.

30.05 FUNDING. Expenses for the operation of the Committee shall be defrayed by the Council, in an amount to be determined by the Council, from fines and penalties and out of any funds that may be legally allocated for such purposes. This shall not prevent other entities or individuals from donating money to this Committee.

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CHAPTER 31

FAMILY RESOURCE CENTER GOVERNANCE BOARD

31.01 Family Resource Center
31.02 Governance Board
31.03 Qualifications of Board
31.04 Organization of the Board
31.05 Powers and Duties
31.06 Contracting with Resource Center Lessees
31.07 Receipts and Expenditures
31.08 Theft

31.01 FAMILY RESOURCE CENTER. The Center for the City shall be officially referred to as the Goldthwaite Garvey Family Resource Center. It is referred to in this chapter as the Center.

31.02 GOVERNANCE BOARD. The Governance Board of the Center, hereinafter referred to as the Board, consists of five (5) voting resident members. All members are to be appointed by the Mayor with the approval of the Council. In addition there shall be three (3) ex-officio members as follows: City Administrator/Clerk and two (2) representatives of the tenants.

(Ord. 2111 – Feb. 08 Supp.)

31.03 QUALIFICATIONS OF BOARD. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

31.04 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 three years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every year of one-third (1/3) of the total number or as near as possible, to stagger the terms. Each member is limited to no more than two (2) terms. The initial appointments shall be two members for one (1) year, two members for two (2) years and three members for three (3) years. Those members appointed for the initial one-year term will be entitled to an additional two full terms.

2. Vacancies. The position of any Board member shall be vacated if such member moves permanently from the City. The position of any Board member 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 Board member shall fill out the unexpired term for which the appointment is made.

3. Compensation. The Board members shall receive no compensation for their services.

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

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

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

3. Hiring of Personnel. To employ maintenance and janitorial employees as may be necessary for the proper maintenance of the Center and fix their compensation.

4. Removal of Personnel. To remove employees, by a two-thirds vote of the Board.

5. Purchase. To select, or authorize the purchase of maintenance supplies for the Center within budgetary limits set by the Board.

6. 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 Center.

7. Expenditures. To have exclusive control of the expenditure of all funds allocated for Center purposes by the Council and of all moneys available by gift or otherwise for the maintenance of the Center buildings, and of all other moneys belonging to the Center from whatever the source. ***(Ord. 2067 – Jan. 06 Supp.)***

8. Gifts. To accept gifts of personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Center; to execute bills of sale for the conveyance of said property; and to expand the funds received by them from such gifts, for the improvement of the Center. Any gift of real property shall be taken in the name of the City of Boone, Iowa, as well as any deeds conveying the same.

9. 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 Resource Center.

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

11. Annual Report. The Board shall make an annual report to the Council within thirty days after the close of the fiscal year. This report shall contain lessee information, fiscal year financial report and other matters deemed necessary for Council review and discussion.

31.06 CONTRACTING WITH RESOURCE CENTER LESSEES. The Board has power to contract with lessees in accordance with the following:

1. Contracting. The Board may contract with other public, private or semiprivate organizations for the use of any area of the Center by lessees.

2. Termination. Such a contract may be terminated at any time by providing one hundred twenty (120) days advanced notice consistent with the terms of the lease agreement on file and in effect.

31.07 RECEIPTS AND EXPENDITURES. All money received and/or appropriated by the Council for the use of or operation and maintenance of the Center shall be set aside in an account for the Center. Expenditures shall be paid by the City only on orders of the Board. The warrant writing officer is the City Finance Officer.

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

(Ch. 31 - Ord. 2028 – Sep. 04 Supp.)

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CHAPTER 32

PROCUREMENT BY REQUEST FOR PROPOSALS

32.01 Procurement of Goods and Services by Requests for Proposals
32.02 Bond, Indemnity and Insurance
32.03 Preparation, Review and Approval of RFPs Prior to Issuance
32.04 Consultant Prohibited from Submitting RFP
32.05 Issuance and Publication of RFPs
32.06 Clarification of Specifications and Qualifications by Proposers
32.07 Submission and Opening of Proposals
32.08 Evaluation and Selection of Best Proposal
32.09 Appeal of Decision to Award
32.10 Rejection of Proposals
32.11 Approval of RFP and Notification of Successful Proposer
32.12 Assignment of Contract Prohibited

32.01 PROCUREMENT OF GOODS AND SERVICE BY REQUESTS FOR PROPOSALS.

1. In procuring goods and/or services under the request for proposals (RFP) process, selection of the successful proposal may be based upon criteria in addition to cost to the City and compliance with specifications, including but not limited to experience, expertise and/or qualifications of the provider; quality of the goods and/or services; ease of operation; and the quality and availability of training or repair services.

2. The procurement of goods and/or services for the City, wherein criteria in addition to cost to the City and compliance with specifications will be considered in selecting from among competing proposers, and wherein the cost to the City is estimated to exceed $36,000, shall be accomplished under the RFP process outlined herein.

3. Exceptions to the RFP process are as follows:

A. Legal services.

B. Professional services where the estimated cost does not exceed $36,000.

C. Procurement of goods and/or services where the total cost is estimated not to exceed $36,000.

D. Procurement of professional services which are being funded by Federal funds, and where Federal law or regulation requires the use of a request for qualifications process.

32.02 BOND, INDEMNITY, AND INSURANCE.

1. When deemed to be in the public interest, the proposers may be required to submit a bond, with good and sufficient sureties, in an amount deemed adequate to assure performance of the contract in the time and manner prescribed in the contract, to secure the payment of the

proposer's subcontractors and suppliers, and to assure maintenance of the goods.

2. Proposers shall be required to execute an indemnity in favor of the City, agreeing to save, indemnify, and keep harmless the City against all loss, damages, claims, liabilities, judgments, costs and expenses which may in any way accrue against the City in consequence of the awarding the contract or which may in any way result from the proposer's performance thereof

32.03 PREPARATION, REVIEW, AND APPROVAL OF RFPS PRIOR TO ISSUANCE. The department head requesting the procurement of goods and/or services by RFP shall be responsible for preparing the RFP. All RFPs shall be subject to review by the City Administrator and the City Attorney for conformance with the requirements of this chapter as well as the review and approval by the City Council prior to issuance.

32.04 CONSULTANT PROHIBITED FROM SUBMITTING RFP. Independent consultants retained for the purpose of design and development of an RFP shall be prohibited from submitting a proposal for that RFP.

(Ord. 2179 – May 12 Supp.)

32.05 ISSUANCE AND PUBLICATION OF RFPS. The City Administrator, in consultation with the requesting department head, shall determine the most appropriate manner for issuance and promulgation of RFPs. RFPs shall be promulgated in such a manner as will reasonably assure notification to all potential proposers from whom the City would desire to receive proposals. Notice of the pendency and availability of RFPs shall be published at least fourteen (14) business days in advance of the date for receiving proposals.

32.06 CLARIFICATION OF SPECIFICATIONS AND QUALIFICATIONS BY PROPOSERS. All proposers shall contact the City Administrator or department head making the request for RFPs for clarification of any specifications or qualifications stated in the request. Any clarification shall be in writing and copied to City Administrator or department head, depending on who prepared the clarification. Only the City's written responses shall be considered the City's official response binding upon the City. The City may also issue addenda amending the RFP prior to the deadline for submitting the RFP.

32.07 SUBMISSION AND OPENING OF PROPOSALS. All proposals made pursuant to this part shall be publicly opened by the City Administrator at such time and place as shall be specified in the RFP, and all such proposals shall be available for a reasonable time to public inspection in the City Administrator's office.

32.08 EVALUATION AND SELECTION OF BEST PROPOSAL.

1. All RFPs will be submitted to the City Administrator and department head for evaluation and selection of the best proposal. A written recommendation shall be submitted to the City Council no later than fourteen (14) days after the proposal is opened.

2. The City Administrator shall send a notice of intent to award to all competing proposers by ordinary mail, FAX or email at the address, telephone number or email address shown in their proposals on the same date the written decision to award is made.

32.09 APPEAL OF DECISION TO AWARD. Any proposer who is aggrieved by the evaluation and final decision to award an RFP must submit a written objection to the City Administrator on or before the date fixed for appealing said award. All written objections must specify what the objection is and support said objection with documentation. No award will be made until all appeals are heard. All appeals shall be presented to the City Council for consideration. The decision of the City Council shall be final and no further appeal can be taken.

32.10 REJECTION OF PROPOSALS. The City reserves the right to reject any or all proposals in whole or in part received in response to the RFP. The City will not pay for any information requested in the RFP, nor is it liable for any cost incurred by a proposer in responding to the RFP.

32.11 APPROVAL OF RFP AND NOTIFICATION OF SUCCESSFUL PROPOSER. The City Council will by resolution approve the proposal which it selects as the best proposal. Upon the City Council's approval of the proposal, the City Administrator shall give notice advising the proposer whose proposal was selected what actions must be taken to complete the formation of the contract. The City Administrator is authorized to sign the necessary contract to complete the purchase of any goods and/or services so approved.

32.12 ASSIGNMENT OF CONTRACT PROHIBITED. No contract awarded to a successful proposer shall be assignable to another proposer determined not to be a qualified and responsible proposer.

(Ch. 32 – Ord. 2083 – Dec. 06 Supp.)

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CHAPTER 34

PUBLIC SAFETY DEPARTMENT

34.01 Public Safety Department Established
34.02 Organization
34.03 Public Safety Director
34.04 Compensation
34.05 Training
34.06 Delegation of Duties

34.01 PUBLIC SAFETY DEPARTMENT ESTABLISHED. A Public Safety Department is hereby established which shall consist of the Police and Fire Departments under the supervision of the Public Safety Director.

34.02 ORGANIZATION. The Police and Fire Departments shall operate as separate subdivisions of the Public Safety Department. Each department shall have a chief who is appointed by the Council upon the recommendation of the Public Safety Director.

34.03 PUBLIC SAFETY DIRECTOR. The Public Safety Department shall be under the supervision of a Public Safety Director appointed by the Council upon the recommendation of the City Administrator. The Public Safety Director shall have duties and responsibilities as established by the Council and as set forth in the job description adopted by the Council.

34.04 COMPENSATION. The Public Safety Director shall receive compensation as established by the Council and set forth in a written contract approved by the Council by resolution.

34.05 TRAINING. The Public Safety Director shall have knowledge of both law enforcement and fire protection and shall be versed in both disciplines to the extent that the Director is capable of managing both departments and have a good working knowledge of both department's functions.

34.06 DELEGATION OF DUTIES. The Public Safety Director may delegate duties to the chiefs of either the Police and Fire Departments as he/she determines necessary to carry out the respective responsibilities of each department.

(Ch. 34 – Ord. 2150 – Sep. 09 Supp.)

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CHAPTER 35

POLICE DEPARTMENT

35.01 Department Established
35.02 Organization
35.03 Peace Officer Qualifications
35.04 Required Training
35.05 Compensation
35.06 Department Appointments
35.07 Police Chief: Duties
35.08 Departmental Rules
35.09 Summoning Aid
35.10 Taking Weapons

35.01 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.

35.02 ORGANIZATION. The department shall be a separate division of the Public Safety Department and shall consist of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council. The Chief and all personnel in the police department shall be under the direct supervision of the Public Safety Director.

(Ord. 2150 – Sep. 09 Supp.)

35.03 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)

35.04 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)

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

35.06 DEPARTMENT APPOINTMENTS.

1. Police Chief. The Council, upon recommendation of the Public Safety Director, shall appoint the Police Chief pursuant to Chapter 400 of the Code of Iowa.

2. Full-time Police Officers. All full-time police officers shall be appointed by the Police Chief pursuant to Chapter 400 of the Code of Iowa.

3. Part-time Police Officers. All part-time police officers shall be appointed by the Police Chief.

(Ord. 2150 – Sep. 09 Supp.)

35.07 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.

35.08 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.

35.09 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)

35.10 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)

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CHAPTER 36

FIRE DEPARTMENT

36.01 Establishment and Purpose
36.02 Organization
36.03 Department Appointments
36.04 Training
36.05 Compensation
36.06 Fire Chief: Duties
36.07 Obedience to Fire Chief
36.08 Constitution
36.09 Accidental Injury Insurance
36.10 Liability Insurance
36.11 Calls Outside City
36.12 Mutual Aid
36.13 Authority to Cite Violations
36.14 Collection of Fees for Response to Vehicle Fires or Extractions for Owners Who Reside Outside the Fire Department's First Response Jurisdiction

36.01 ESTABLISHMENT AND PURPOSE. A Fire Department is hereby established to prevent and extinguish fires, 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 within the City.

(Code of Iowa, Sec. 364.16)

36.02 ORGANIZATION. The Fire Department shall be a separate division of the Public Safety Department and consist of a full-time division and a volunteer paid-on-call division.

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

1. Full-time Division. The full-time division consists of the Fire Chief and such other officers and personnel as may be authorized by resolution of the Council upon recommendation of the Public Safety Director and Fire Chief.

2. Volunteer Paid-on-Call Division. The volunteer paid-on-call division consists of such volunteer paid-on-call personnel as may be authorized by resolution of the Council upon recommendation of the Public Safety Director and Fire Chief.

(Ord. 2150 – Sep. 09 Supp.)

36.03 DEPARTMENT APPOINTMENTS.

1. Fire Chief. The Council, upon recommendation of the Public Safety Director, shall appoint the Fire Chief pursuant to Chapter 400 of the Code of Iowa.

2. Career Firefighters. All career firefighters shall be appointed by the Fire Chief pursuant to Chapter 400 of the Code of Iowa.

3. Volunteer Paid-on-Call Firefighters. All volunteer paid-on-call firefighters shall be appointed by the Fire Chief.

(Ord. 2150 – Sep. 09 Supp.)

36.04 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])

36.05 COMPENSATION. Members of the department shall receive such compensation as shall be determined by resolution of the Council.

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

36.06 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.

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

36.08 CONSTITUTION. ***(Repealed by Ord. 2150 – Sep. 09 Supp.)***

36.09 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)

36.10 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)

36.11 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])

36.12 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])

36.13 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)

36.14 COLLECTION OF FEES FOR RESPONSE TO VEHICLE FIRES OR EXTRACTIONS FOR OWNERS WHO RESIDE OUTSIDE THE FIRE DEPARTMENT'S FIRST RESPONSE JURISDICTION. The Boone Fire Department is authorized to charge and collect a fee, as established by resolution of the City Council, for the use of any emergency equipment of the department in response to vehicle fires or extrications for owners who reside outside the fire department's first response jurisdiction.

(Ord. 2148 – Sep. 09 Supp.)

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CHAPTER 37

HAZARDOUS SUBSTANCE SPILLS

37.01 Purpose
37.02 Definitions
37.03 Cleanup Required
37.04 Liability for Cleanup Costs
37.05 Notifications
37.06 Police Authority
37.07 Liability

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

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

1. "Cleanup" means 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])

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

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

1. The reasonable cleanup costs, as set by resolution of the City Council, 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.

(Ord. 2149 – Sep. 09 Supp.)

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

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

37.05 NOTIFICATIONS.

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

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

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

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

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

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

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

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CHAPTER 38

EMERGENCY MANAGEMENT

38.01 Statement of Purpose
38.02 Definitions
38.03 Director of Emergency Management

38.01 STATEMENT OF PURPOSE. Because of the ever present possibility of the occurrence of disasters and in order to insure that preparations of the City will be adequate to deal with such disasters, and to provide for the common defense, to protect the public peace, health and safety and to preserve the lives and property of the people of the City, it is the purpose of the City, acting by and through the local emergency management agency, to do the following:

1. Establish Service. Establish emergency management services in the City.

2. Emergency Powers. Confer upon the Mayor or Council the emergency powers provided in Chapter 29C of the Code of Iowa.

3. Mutual Aid. Provide for mutual aid among the municipalities within the County and with such County, cooperate with the State and Federal government with respect to the carrying out of emergency management functions and to implement Chapter 29C of the Code of Iowa.

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

1. "Disaster" means manmade and natural occurrences, such as fire, flood, drought, earthquake, tornado, windstorm, hazardous substance or nuclear power plant accident or incident, which threaten the public peace, health and safety of the people or which damage and destroy public or private property. The term includes enemy attack, sabotage or other hostile action from without the City.

2. "Local emergency management agency" means the countywide joint county-municipal public agency organized to administer Chapter 29C of the Code of Iowa under the authority of the local emergency management commission.

38.03 DIRECTOR OF EMERGENCY MANAGEMENT. There is hereby created the position of Director of Emergency Management. The Director of Emergency Management shall be appointed by the Mayor, subject to Council approval, for a term of two (2) years and shall serve without compensation. The Director is hereby designated a member of the County Emergency Management Commission. The Emergency Management Commission shall determine the mission of its agency and program and provide direction for the delivery of the emergency management services of planning, administration, coordination, training and support for local governments in the event of a disaster. The Emergency Management Commission and the Director of Emergency Management shall have all of the powers and duties as provided by Chapter 29C of the Code of Iowa in the administration thereof.

CHAPTER 39

ALARM SYSTEMS

39.01 Definitions
39.02 Testing
39.03 Fee for Answering False Alarms
39.04 Termination – Excessive False Alarms
39.05 Evidence of False Alarms

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

1. "Alarm system" means an assembly of equipment and devices or a single device such as a solid state unit which uses electrical energy to signal the presence of a hazard requiring urgent attention and to which the Police Department or Fire Department is expected to respond. In this chapter, the term "alarm system" includes but is not limited to the terms "automatic holdup alarm system," "burglar alarm system," "holdup alarm system," "fire alarm system," and "manual holdup alarm system," as those terms are hereinafter defined. Alarm systems which monitor temperature, humidity or any other condition not directly related to the detection of an unauthorized intrusion into premises or an attempted robbery at premises are specifically excluded from the provisions of this chapter. Also excluded from this definition and from the coverage of this chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If a system employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, the system is within the definition of "alarm system" and is subject to this chapter.

2. "Automatic holdup alarm system" means an alarm system in which the signal transmission is initiated by the action of the robber.

3. "Burglar alarm system" refers to an alarm system signaling an entry or attempted entry into the area protected by the system.

4. "False alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, without an unlawful entry, or through the negligence of the owner or lessee of an alarm system or said person's employees or agents or other cause.

5. "Holdup alarm system" refers to an alarm system signaling a robbery or attempted robbery.

6. "Manual holdup alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

7. "Subscriber" means a person who buys or leases or otherwise obtains an alarm signaling system and contracts with or hires an alarm business to monitor or service the alarm device.

39.02 TESTING.

1. No alarm system designed to transmit emergency messages directly to the Police Department or Fire Department shall be tested or demonstrated without first notifying the Police Department dispatcher.

2. No alarm system relayed through intermediate services to the Police or Fire Department will be tested to determine police response without first notifying the police dispatcher.

3. Any testing done without proper advance notification shall be classified as a "false alarm" for purposes of this chapter. All notices shall be prior to the testing date unless the Police Chief gives special permission otherwise. All notices shall include the time, date, owner's or subscriber's name, address and the name of the representative responsible for the testing, and said person's employer's name, address and telephone number.

39.03 FEE FOR ANSWERING FALSE ALARMS. There is hereby imposed a fee for Police or Fire Department response to false alarms. There shall be no charge for four (4) false alarms per calendar year. For any false alarms over four (4) false alarms per year, a charge will be made of ten dollars ($10.00) for the first response, thirty dollars ($30.00) for the second response and fifty dollars ($50.00) for all responses thereafter. The restriction shall be applied to each calendar year as a new period.

39.04 TERMINATION – EXCESSIVE FALSE ALARMS. The Police Chief or Fire Chief is authorized to require that the owner or lessee of any alarm system directly connected to the department disconnect such device until it is working in such a manner as will not produce a high frequency of false alarms. The Police Chief or Fire Chief may require disconnection if ten (10) false alarms are received in any twelve-month period. The Police Chief or Fire Chief may, after giving notice to the subscriber, order disconnection of the system for non-cooperation of the subscriber, or for violations of this chapter.

39.05 EVIDENCE OF FALSE ALARMS. In determining whether an alarm is a false alarm, all circumstances shall be considered. Setting off an alarm may cause a person who was attempting a break-in to flee. In investigating whether an alarm is false, a careful check will be made for signs of attempts to break in, such as scratches around windows.

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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
40.06 Disobeying an Order of a Police Officer or Firefighter

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.

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

B. As used in this section:

(1) "Show disrespect" means to deface, defile, mutilate, or trample.

(2) "Deface" means to intentionally mar the external appearance.

(3) "Defile" means to intentionally make physically unclean.

(4) "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

(5) "Mutilate" means to intentionally cut up or alter so as to make imperfect.

(6) "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

C. This subsection does not apply to a flag retirement ceremony conducted pursuant to federal law.

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

(Ord. 2123 – Feb. 08 Supp.)

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

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

8. Permitting on Premises. No person shall permit or allow any act constituting disorderly conduct as defined herein in any house, building or upon any premises owned, occupied, possessed or controlled by said person. ***(Ord. 2025 – Sep. 04 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)

40.06 DISOBEYING AN ORDER OF A POLICE OFFICER OR FIREFIGHTER. It is unlawful for any person to knowingly disobey the lawful or reasonable order of any police officer, firefighter, emergency personnel or military personnel given incident to their official duties. It is also unlawful to disobey any police officer, firefighter, or emergency personnel incident to their duties when coping with an emergency, explosion or other disaster. ***(Ord. 1982 – Mar. 03 Supp.)***

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 Obstruction of Emergency Communications

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 within the City limits except in the following cases:

1. The use of barbed wire is permitted in all agriculturally zoned areas within the City limits as well as wherever it is required to contain or control livestock, horses or other animals in permitted areas.

2. Barbed wire is permitted at the top of any fence at least six (6) feet above ground level if the portion of the fence containing the barbed wire is made to slant toward the inside of the enclosure.

41.09 DISCHARGING WEAPONS.

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

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

41.10 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, projectiles or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments whereby any person may be or is hurt or hit, any window is broken or other property injured or destroyed anywhere within the City limits. ***(Ord. 1981 – Mar. 03 Supp.)***

(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 OBSTRUCTION OF EMERGENCY COMMUNICATIONS. An emergency communication is any telephone call or radio transmission to a fire department or police department for aid, or a call or transmission for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. A person who fails to relinquish a telephone or telephone line which the person is using when informed that the phone or line is needed for an emergency call or knowingly and intentionally obstructs or interferes with an emergency call or transmission commits a simple misdemeanor.

(Code of Iowa, Sec. 725.5)

(Ord. 2198 – Dec. 14 Supp.)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Controlled Substance Defined
43.03 Drug Paraphernalia Defined
43.04 Determining Factors
43.05 Possession of Drug Paraphernalia
43.06 Manufacture, Delivery or Offering For Sale

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

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

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

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

13. Chemicals used in manufacturing drugs, items used to weigh, analyze, process, store or conceal illicit substances.

(Ord. 2155 – May 10 Supp.)

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. Proximity To Substances. The proximity of the object to controlled substances.

5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

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

A violation of this chapter shall carry the following penalty amounts:

1. First Offense: $350.00.

2. Second Offense: $500.00.

3. Third and Subsequent Offenses: $625.00 and a jail sentence not to exceed thirty (30) days."

(Ord. 2155 – May 10 Supp.)

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

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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, consume, or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under State laws.

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

(Ord. 2210 – Dec. 14 Supp.)

2. Penalties. Anyone found guilty of violating subsection 1 shall receive a penalty consistent with §123.47(3), Code of Iowa.

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

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

(Ord. 2175 – May 12 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

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

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CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarette and Tobacco Taxes
46.03 Contributing to Delinquency

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

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

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

B. "Knowingly" means knowledge 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 peace 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 public place in the City between the hours of eleven-thirty o'clock (11:30) p.m. and five o'clock (5:00) a.m. of the following day.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

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

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a peace 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 peace 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 peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace 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. First offense – $75.00 fine

B. Second offense – $300.00 fine

C. Third and subsequent offenses – $750.00 fine

(Ord. 2209 – Dec. 14 Supp.)

46.02 CIGARETTE AND TOBACCO TAXES. (Person under legal age)
(Code of Iowa, Sec. 453A.2)

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age.

2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

3. Possession of cigarettes or tobacco products by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the cigarettes or tobacco products as part of the individual employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.

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

(Ord. 2199 – Dec. 14 Supp.)

46.03 CONTRIBUTING TO DELINQUENCY. It is unlawful for any person to encourage any child under eighteen (18) years of age to commit any act as defined in §709A.1, Code of Iowa.

(Ord. 2140 – Sep. 09 Supp.)

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

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CHAPTER 47

PARK REGULATIONS

47.01 Supervisory Responsibility Assigned
47.02 Restricted Use of Park Grounds
47.03 Speed Limits Established
47.04 Weight Limits Established
47.05 Parking
47.06 Animals to be Controlled
47.07 Fires Restricted
47.08 Collection of Nuts, Fruits or Mushrooms Permitted
47.09 Use of Firearms Restricted
47.10 Refuse and Litter
47.11 Hours of Use Established
47.12 Camping
47.13 Road Usage Controlled
47.14 Consumption and Possession of Beer Restricted
47.15 Operation of Snowmobiles
47.16 ATV Operation Prohibited
47.17 Rules to be Observed; Exception
47.18 Reward for Information on Damage and Defacing
47.19 Caretakers and Watchmen

47.01 SUPERVISORY RESPONSIBILITY ASSIGNED. All the public parks and grounds of the City shall be under the direct supervision and control of the Board of Park Commissioners. All persons entering within the boundaries of any such public park or grounds shall be subject to and shall strictly observe any and all rules and regulations which the Board may deem necessary from time to time to adopt for the proper management and control of such public parks and grounds.

47.02 RESTRICTED USE OF PARK GROUNDS.

1. It is unlawful for any person to use, enjoy the privileges of, destroy, injure or deface plant life, trees, buildings, or other natural or material property; or to construct or to operate for private or commercial purposes any structure; or to remove any plant life, trees, buildings, sand, gravel, ice, earth, stone, wood, or other natural material; or to operate vehicles within the boundaries of any City park, to any other land and/or waters under the jurisdiction of the Park Commission for any purpose whatsoever except upon the terms, conditions, limitations and restrictions as set forth by the Park Commission.

2. No person shall remove any ice, sand, gravel, stone, wood or other natural material from any lands or waters under the jurisdiction of the Park Commission without first obtaining permission and entering into an agreement with the Commission.

3. It is unlawful for any person to hunt, trap, or in any manner intentionally take, capture, kill, wound or attempt to kill or wound, buy, sell, ship, transport or have in his/her possession any fish, mussels, clams, frogs, game birds, fowl and birds, their nests, eggs or plumage, game or wild animals, or fur or skins therefrom, and all other wildlife, whether game or non-game, native or migratory, located on or in any land or water, including bodies of water running through City-owned property under the jurisdiction of the Park Commission; except that

fishing and hunting shall be permitted by the Park Commission on certain lands and waters under their supervision in accordance with the laws of the State. No person sixteen (16) years of age or older is permitted to fish in the McHose Park fishing pond.

47.03 SPEED LIMITS ESTABLISHED. The maximum speed limit of all vehicles on City park roads and drives is twenty (20) miles per hour, except where lower speed limit is posted. All driving shall be confined to designated roadways.

47.04 WEIGHT LIMITS ESTABLISHED. Vehicles having a gross weight over five (5) tons shall not operate over City park roads or drives.

47.05 PARKING.

1. All vehicles shall be parked in designated parking areas. No motor vehicle shall be left unattended in any recreational area under the control of the Park Commission for more than a forty-eight (48) hour period. Any disabled vehicle that cannot be removed within that time will be removed at the expense of the owner unless previous arrangements are made with the Park Commission or Director of Parks.

2. It is unlawful for any person to occupy any portion of any area for washing or repairing vehicles, advertising or political campaigning, hawking, peddling, or any other commercial activity (except concessionaires acting under the authority of a lease or contract with the Park Commission) or for any other purpose not primarily recreational.

47.06 ANIMALS TO BE CONTROLLED.

1. No horse or other animal shall be hitched or tied to any tree or shrub, or in such a manner as to result in injury to any property whatsoever. Horses are allowed only on the roads and designated trails and are to be tied only in areas set out for that purpose.

2. No privately owned animal shall be allowed to run at large in any City park, except by permission of the Park Commission or Director of Parks. Every such animal shall be deemed as running at large unless the owner carries such animal or leads it by a leash or chain not to exceed six (6) feet in length or keeps it confined in or attached to a vehicle.

47.07 FIRES RESTRICTED. No fires shall be built, except in a place provided therefor, and any such fire shall be extinguished when the site is vacated unless it is immediately used by some other party.

47.08 COLLECTION OF NUTS, FRUITS OR MUSHROOMS PERMITTED. It is lawful to collect the fruit of all nut and berry producing plants or mushrooms for noncommercial home use, provided that the collector does not otherwise damage the parent plant.

47.09 USE OF FIREARMS RESTRICTED. The use by the public of firearms and weapons of all kinds is prohibited in all City parks except in areas hereafter designated by the Park Commission as hunting areas.

47.10 REFUSE AND LITTER. No person shall place any waste, refuse, litter, glass, cans or foreign substance in any area or receptacle except those provided for that purpose. No person shall dispose of garbage, refuse or litter from any household, business or any other place in any refuse or litter container provided in any City park.

47.11 HOURS OF USE ESTABLISHED. Except by prior arrangement or permission granted by the Park Commission or Director of Parks, all persons shall vacate City parks between the hours of eleven o'clock (11:00) p.m. and five o'clock (5:00) a.m. of the following day. Areas may be closed at an earlier or later hour, notice of which shall be given by proper signs or instructions.

47.12 CAMPING.

1. The Park Commission is authorized to fix fees for camping, use of shelter houses and other special privileges which shall be in such amounts as may be determined by the Park Commission upon the basis of the costs of providing same, and the reasonable value of such privileges.

2. No person shall camp in any portion of a City park, except in portions prescribed or designated by the Park Commission or Director of Parks.

3. No person shall be permitted to camp for a period longer than that designated by the Park Commission or Director of Parks for the specific City park and in no event longer than a period of two (2) consecutive weeks. After the two-week period, the camping unit must leave overnight. All campers shall maintain quiet and avoid excessive noise in the campgrounds between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. Persons under the age of eighteen (18) years will be accompanied by a parent or guardian eighteen (18) years of age or older.

4. Any person who camps or makes application for a permit to camp in any City park must be equipped with camping equipment sufficient to shelter him or her from the weather, shall furnish his or her name and

address, sign the camping permit and advise of the termination time when the permit is issued. If an extension of time is requested a new permit must be obtained. The sufficiency of the equipment is left to the judgment of the Director of Parks.

5. Park officers are given authority to refuse camping privileges and to rescind any and all camping permits for cause.

47.13 ROAD USAGE CONTROLLED. The Park Commission, at their discretion, may temporarily close park roads due to high water, floods, snow, ice and spring conditions in order to protect park users and recreational area.

47.14 CONSUMPTION AND POSSESSION OF BEER RESTRICTED. Beer may be consumed in the recreational areas under the jurisdiction of the Park Commission except on roadways and parking lots. No person shall possess or consume beer, as defined in Section 123.1 of the Code of Iowa, between the hours of eleven o'clock (11:00) p.m. and five o'clock (5:00) a.m. in or on any area; except that beer may be possessed within a camping unit between said hours by an adult member of any camping party. Any beer possessed in violation of this rule shall be confiscated by the Director of Parks and destroyed or retained for evidence.

47.15 OPERATION OF SNOWMOBILES. Snowmobiles may be operated in a City park on designated snowmobile trails where established. If none are marked as such, operation of a snowmobile is prohibited. All other rules regarding the operation of snowmobiles in City parks, as established by the Park Commission, shall also be observed.

47.16 ATV OPERATION PROHIBITED. The operation or use of all terrain vehicles (ATVs) is prohibited anywhere on any City park property or grounds.

47.17 RULES TO BE OBSERVED; EXCEPTION. No person shall enter upon portions of any park in disregard of official signs prohibiting same, except by permission of the Park Commission or Director of Parks. Nothing in these rules and regulations shall prohibit or hinder the City park employees from performing their official duties.

47.18 REWARD FOR INFORMATION ON DAMAGE AND DEFACING. A twenty-five dollar ($25.00) reward will be awarded for information which results in the arrest and conviction of anyone damaging or defacing any natural or manmade property of the City parks.

47.19 CARETAKERS AND WATCHMEN. Any and all caretakers or watchmen or park policemen now employed or hereafter employed by the Board of Park Commissioners are police officers of the City within such parks or grounds. It is the duty of each to enforce all the provisions of this chapter and all rules and regulations of the Board of Park Commissioners and any other City ordinance in any manner applicable to the government and control of the public parks and grounds.

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CHAPTER 48

SOCIAL HOST REGULATIONS

48.01 Definitions
48.02 Prohibited Acts
48.03 Exceptions
48.04 Violations

48.01 DEFINITIONS.

1. "Alcoholic beverage" means any beverage as defined in §123.3(4), Code of Iowa.

2. "Controlled substance" means a drug, substance, or immediate precursor as specified in Chapter 124, Division IV, Code of Iowa.

3. "Event, gathering, or party" means any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity.

4. "Juvenile" means a person under the age of eighteen (18).

5. "Parent" means any person who is a natural parent or a legal guardian as defined in §123.47(2), Code of Iowa.

6. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or hall or meeting, park or any other place of assembly. "Premises" does not include property that is licensed to sell or serve alcoholic beverages.

7. "Social host" means any person, partnership, corporation or association of one or more individuals who aids, allows, entertains, organizes, supervises, controls, or permits an event, gathering or party. This includes but is not limited to the person(s) who owns, rents, leases or otherwise has control of the premises where the event, gathering or party takes place; the person in charge of the premises; or the person(s) who organized the event, gathering or party. If the social host is a juvenile, and the parent(s) are present on the premises or knows of the event, gathering or party and knows that the consumption of alcohol and/or controlled substances is occurring, the parent(s) are also liable for violations of this chapter.

8. "Underage person" means any individual under the age of twenty-one (21).

48.02 PROHIBITED ACTS. It is unlawful for any social host of an event, gathering or party on the social host's premises to knowingly permit or allow underage persons to consume controlled substances and/or alcoholic beverages, or knowingly permit or allow underage persons to possess controlled substances

and/or alcoholic beverages on the premises. A social host that is present on the premises of the event, gathering, or party where consumption of controlled substances and/or alcoholic beverages is actually occurring is presumed to know the prohibited acts are occurring. This presumption is rebuttable. A social host has an affirmative defense if the social host took reasonable steps to prevent the possession or consumption of controlled substances and/or alcohol, or notified law enforcement and allowed law enforcement to enter the premises under the dominion and control of the social host for which the social host has authority to give consent to enter for the purpose of stopping the illegal activities.

48.03 EXCEPTIONS. This chapter does not apply to actions permitted under Section 123.47(2), Iowa Code (2009), or to legally protected religious observances, or to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

48.04 VIOLATIONS. Violations of this chapter are a municipal infraction under the Boone City Code of Ordinances, and are subject to a civil penalty of $250 for the first violation and $500 for each subsequent violation within two (2) years. Violations of this chapter may also be considered by the City for purposes of approving licenses applied for by the social host.

(Ch. 48 - Ord. 2161 – May 11 Supp.)

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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, volunteer trees less than 3 inches in diameter or other vegetation in the City so as to constitute a health, safety or fire hazard. **(See also Chapter 151)** ***(Ord. 2181 – Apr. 13 Supp.)***

10. ***(Repealed by Ord. 2205 – Dec. 14 Supp.)***

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

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

13. Incomplete or Unfinished Structures. Any structure that is partially or otherwise incomplete, abandoned or unmaintained, including but not limited to fences, parking lots, commercial and residential buildings. ***(Ord. 2110 – Aug. 07 Supp.)***

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. Storage and Disposal of Solid Waste **(See Chapter 105)**

3. ***(Repealed by Ord. 2205 – Dec. 14 Supp.)***

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. In addition to all costs of abatement, a civil penalty, as set by resolution of the City Council as a deterrent against subsequent further violations by the property owner or occupant, will be charged and collected. In the event these costs and penalties are not paid, they shall be assessed against the property. ***(Ord. 2189 – Apr. 13 Supp.)***

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])

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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.

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 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 accordance with the special assessment schedule adopted by resolution of the Council.

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:

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

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

Any inoperable vehicles stored temporarily as part of a legally operated repair business must be stored behind a sight-tight fence or inside an enclosed building until repaired. Vehicles may be temporarily stored on the premises of a legally operated towing service without being stored behind a sight-tight fence or an enclosed building for a period not to exceed twenty (20) days.

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

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

CHAPTER 52

NOISE CONTROL

52.01 Purpose
52.02 Definitions
52.03 General Prohibition
52.04 Noises Prohibited
52.05 Exemptions
52.06 Permits
52.07 Enforcement
52.08 Penalties

52.01 PURPOSE. It is the purpose of this chapter to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

52.02 DEFINITIONS.

1. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

2. "Emergency work" means any work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons of property from an imminent danger.

3. "Emergency vehicle" means a motor vehicle used in response to a (public) calamity or to protect persons or property from imminent danger.

4. "Noise Sensitive Area" includes, but not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

5. "Person" means any individual, firm, association, partnership, joint venture, or corporation.

6. "Public right-or-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

7. "Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

8. "Residential area" means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming,

for residential use in accordance with the terms and maps of the City zoning ordinance.

9. "Weekday" means Monday commencing at 12:00 a.m. until Friday at 11:59 p.m.

10. "Weekend" means Saturday commencing at 12:00 a.m. until Sunday at 11:59 p.m.

11. "Zoning designations" means the residential, commercial and industrial categories of land use.

52.03 GENERAL PROHIBITION.

1. No person shall make, continue, or cause to be made or continued:

A. Any unreasonably loud or raucous noise.

B. Any noise which unreasonably disturbs, inures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Boone.

C. Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

2. Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

A. The proximity of the sound to sleeping facilities, whether residential or commercial.

B. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived.

C. The time of day or night the sound occurs.

D. The duration of the sound.

E. Whether the sound is recurrent, intermittent, or constant.

52.04 NOISES PROHIBITED. The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:

1. Unreasonable Noises. The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

2. Vehicle Horns, Signaling Devices and Similar Devices. The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City of Boone, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

3. Non-Emergency Signaling Devices. Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City of Boone for traffic control purposes are exempt from the operation of this provision.

4. Emergency Signaling Devices. The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil device alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections A and B, below.

A. Testing of an emergency signaling device shall occur between 8:00 a.m. and 5:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

B. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter,

unless authorized by the Emergency Management Director or Chief of Police.

5. Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

6. Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices. The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing around between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:

A. Within or adjacent to residential or noise-sensitive areas;

B. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City of Boone.

7. Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

8. Animals and Birds. Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, commercial kennels, veterinary hospitals, pet shops or pet kennels, are exempt from this subsection.

9. Loading or Unloading Merchandise, Materials, Equipment. The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

10. Noise Sensitive Areas-Schools, Courts, Churches, Hospitals, and Similar Institutions. The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

11. Engine Braking Noise Prohibited. Trucks, except all emergency vehicles, shall not engine brake (sometimes known as "jake braking") within the City limits. "Engine braking noise" is defined as the noise that is made when a truck driver engages the engine brake in order to slow his vehicle down without engaging the vehicle's brakes.

(Ord. 2104 – Aug. 07 Supp.)

52.05 EXEMPTIONS. Sounds caused by the following are exempt from the prohibitions set out in this chapter and are in addition to the exemptions specifically set forth in the previous section:

1. Motor vehicles on traffic ways of the City, provided that the prohibition of 52.04(2) continues to apply.

2. Repairs of utility structures which pose a clear and immediate hanger to life, health, or significant loss of property.

3. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision , civil defense, police activity, or imminent danger, provided that the prohibition contained in 52.04(4) continues to apply.

4. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

5. Outdoor School and Playground Activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.

6. Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

52.06 PERMITS. Applications for a permit for relief from the provisions of this chapter may be made to the Clerk pursuant to the following procedures:

1. All permits must be applied for in writing during normal business hours, stating what devices are to be employed, where they are to be employed, on what date(s) and at what times of day they are to be used, the nature of the sounds to be produced or amplified and the number of people in attendance, and the persons responsible for the activity.

2. Permits granted shall state with reasonable specificity the date(s), location(s), time(s), nature of the sound, devices permitted, number of people in attendance, and the persons in attendance, and the persons responsible for the activity.

3. Permits shall not be arbitrarily or unreasonably withheld, nor shall the free expression of ideas or lawful speech be restrained, but sound and noise-producing conduct having no communicative value and serving only to unreasonably disturb and disrupt the enjoyment of residences and normal pursuits shall be restrained.

4. The Council may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

52.07 ENFORCEMENT. The Police Department shall have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this chapter shall prevent the Police Department from obtaining voluntary compliance by way of warning, notice or education. If a person's conduct would otherwise violate this chapter and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

52.08 PENALTIES. A person who violates a provision of this chapter is guilty of a simple misdemeanor which is punishable by a fine not to exceed $500.00 or imprisonment not to exceed thirty (30) days, but not both. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ch. 52 – Ord. 2085 – Dec. 06 Supp.)

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CHAPTER 55

ANIMAL CONTROL AND CARE

55.01 Purpose
55.02 Definitions
55.03 Animals and Fowl At Large Prohibited
55.04 Impounding Animals and Fowl At Large
55.05 Redemption of Impounded Animals
55.06 Cost of Impoundment; Disposal of Impounded Animals
55.07 Disposition of Unclaimed Animals
55.08 Rabies Vaccination
55.09 Rabies Tags Required
55.10 Failure To Report Suspected Rabies Cases
55.11 Confinement For Rabies Determination
55.12 Standard of Care
55.13 Cruelty to Animals Specified
55.14 Duty to Report Animal Abuse or Neglect
55.15 Sale or Disposal of Live Animals as Prizes
55.16 Poisoning of Animals Prohibited
55.17 Duties Upon Striking an Animal
55.18 Nuisances
55.19 Animals in Motor Vehicles
55.20 Animal Related Events
55.21 Animals In Transport
55.22 Animal Waste
55.23 Notification of Guard Dog Location
55.24 Shelter Fees
55.25 Harassment Of Animals
55.26 Disposition of Dead Animals
55.27 Prohibited Practice
55.28 Violations; Penalties
55.29 Police Canine Unit Exempt

55.01 PURPOSE. The purpose of this chapter is to establish regulations regarding the treatment and control of animals in the City.

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

1. "Animal" means any non-human vertebrate.

2. "Animal control officer" means the person charged with the duty of enforcing any provisions pertaining to animals.

3. "At large" means off the premises of the owner and on other premises against the wishes of the person in possession of such other premises or upon the public streets, alleys, public grounds, school grounds or parks within the City. An animal shall not be deemed at large if:

A. The animal is on the owner's property or a neighbor's property with that neighbor's consent; or

B. The animal is confined in a cage or motor vehicle; or

C. The animal is restrained by a leash of sufficient strength to control its action; or

D. The dog is actively engaged in training in dog obedience, for hunting or for other service under continual control of its owner or trainer provided that the owner or trainer is conducting the training in an open public area, is not endangering other users or animals in the area, has the dog within 30 yards and under continual voice control and has in his/her possession a dog leash appropriate to control the dog; or

E. The animal is a draft animal engaged in drawing vehicles or conveyances.

4. "Euthanize" means to kill an animal or fowl in a humane manner.

5. "Owner" means any person owning, keeping, sheltering or harboring animal or fowl.

55.03 ANIMALS AND FOWL AT LARGE PROHIBITED. All animals and fowl shall be restrained by the owners thereof from running at large. The owner of any animal or fowl found to be running at large or trespassing on public or private grounds is guilty of a violation of this section. To be guilty of a violation, the same animals or fowl need not be found running at large more than once.

55.04 IMPOUNDING ANIMALS AND FOWL AT LARGE. Any animal or fowl found at large shall be apprehended and impounded by the animal control officer. The animal control officer shall have the right to enter upon private property when it is necessary to do so in order to apprehend any animal or fowl that has been running at large. Such entrance upon private property shall be in reasonable pursuit of the animal or fowl and shall not include entry into a domicile unless it is at the invitation of the occupant. If the animal control officer determines that the animal or fowl at large is dangerous or fierce and a threat to human safety, and that it cannot be safely captured, the animal or fowl may be killed.

55.05 REDEMPTION OF IMPOUNDED ANIMALS.

1. When an animal or fowl has been apprehended and impounded for being at large or for any other reason, said animal or fowl may be redeemed by the owner by a payment of the appropriate service fee or fees as established by resolution of the Council.

2. The owner of such animal shall be notified that upon payment of impounding costs, such animal will be returned. If the impounded animal or fowl is not recovered by the owner within seven (7) days after notice, said animal shall be disposed of in a manner determined by the animal control officer.

55.06 COST OF IMPOUNDMENT; DISPOSAL OF IMPOUNDED ANIMALS.

1. Any owner who is found in violation of this chapter shall pay, in addition to any fine or costs assessed for a plea of guilty or conviction, all costs of impoundment including but not limited to an impoundment fee, food, boarding fees and immunization, regardless of whether the owner claims the animal or fowl or not. If the animals or fowl is not

reclaimed, the owner shall also pay the costs of euthanizing the animal or fowl and disposal of its carcass. The impoundment fee shall be set by the City Council by resolution. ***(Ord. 2059 – Sep. 05 Supp.)***

2. Before an animal or fowl is euthanized, the animal control officer, police officer or the Boone County Humane Society shall send or have served a written notice to the owner that unless the animal or fowl is reclaimed within five (5) days of the receipt of the notice, they may proceed to euthanize the animal or fowl without further notice. Any animal or fowl may be adopted out in place of being euthanized without further notice to the owner once the five (5) days have elapsed.

3. Before any dog or cat is reclaimed, it must have all immunizations brought current. Also, all impoundment fees including food and boarding fees must be paid.

55.07 DISPOSITION OF UNCLAIMED ANIMALS. If the unknown owner of an animal or fowl apprehended or impounded cannot be located after seven (7) days, or if an owner, when known, does not, after reasonable notice, claim the animal or fowl within seven (7) days, the animal or fowl may be humanely destroyed or otherwise disposed of. If in the opinion of the animal control officer, an animal or fowl is too sick or injured to keep humanely for seven (7) days, the animal or fowl may be euthanized.

55.08 RABIES VACCINATION. Every owner of a dog, cat or horse shall obtain a rabies vaccination for each animal between three (3) and four (4) months of age and at such intervals thereafter as stipulated by the manufacturers of the vaccines used. This section applies to all dogs, cats and horses kept within the City, brought into the City for shows, exhibitions or performances, or in transit. This section does not apply to dogs, cats and horses in transit that are continuously held in secure cages and dogs, cats and horses assigned to research, production of biologics, and licensed animal care shelters or similar facilities.

55.09 RABIES TAGS REQUIRED. All dogs and cats over the age of four (4) months shall wear a collar or harness to which a valid rabies tag is attached. This section does not apply to dogs being exhibited or trained at a kennel club event or while being transported to and from such event if the dog is properly controlled and the owner or trainer has in his or her possession documentation of valid vaccination and registration.

55.10 FAILURE TO REPORT SUSPECTED RABIES CASES. It is the duty of the owner of any animal which has bitten or attacked a person or is suspected of having rabies or any person having knowledge of such bite or attack or suspicion of rabies to report this to a local enforcement officer.

55.11 CONFINEMENT FOR RABIES DETERMINATION. When an animal control officer receives information that any person has been bitten by an animal or that an animal is suspected of having rabies, the animal control officer shall investigate and may order confinement of the animal in accordance with the provisions of this section. Failure or refusal to comply with such order shall be a violation of this section.

1. Dogs or cats may be confined for observation for ten (10) days at the animal shelter or under the care of a licensed veterinarian. The animal control officer may permit confinement at the residence of the owner if the dog or cat has appropriate vaccination records, the dog or cat is not clinically suspected of being rabid and subject to other conditions imposed by the animal control officer. Dogs and cats suspected of rabies may be humanely euthanized and examined by an authorized diagnostic laboratory for rabies upon the owner's request or when there has been a severe attack on the face or neck.

2. Animals other than dogs or cats which are known to have bitten a person or are suspected of rabies shall be examined by a licensed veterinarian. Depending on the veterinarian's recommendation, the animal may be quarantined and/or humanely euthanized and examined by an authorized diagnostic laboratory for rabies.

55.12 STANDARD OF CARE. All owners and keepers of any animal or fowl shall comply with the following standards of care. Failure to comply with any standards shall be a violation of this section and constitute a simple misdemeanor:

1. It is the duty of each person keeping an animal or fowl to provide adequate food, shelter and water for that animal or fowl. No person keeping an animal shall abandon any such animal or fowl. "Abandon" means ceasing to provide control over, shelter, food and water for an animal or fowl without having made responsible arrangements for such care, custody and physical control to be provided by another person.

2. It is the duty of each person keeping an animal or fowl to provide adequate food, which means providing at intervals appropriate for the species a quantity of wholesome food stuff, suitable for the physical condition and age of the animal, served in a clean receptacle or

container, sufficient to maintain an adequate level of nutrition for such animal.

3. It is the duty of each person keeping an animal to provide adequate outdoor shelter for such animal or fowl when it is kept outdoors, tangle-free, which shall mean a structurally sound, weather-proof, properly ventilated shelter, which provides access to shade from direct sunlight and regress from exposure to weather conditions. The shelter should be appropriate for the particular species and breed.

4. It is the duty of each person keeping an animal or fowl to provide adequate indoor shelter for such animal or fowl when it is kept indoors, which means a properly ventilated and illuminated facility, sufficiently regulated by heating or cooling to protect the animal from extremes of temperature, and to provide for its health and comfort. It should be appropriate for the particular species and breed.

5. It is the duty of each person keeping an animal or fowl to provide adequate sanitation, which means periodic cleaning or sanitizing housing facilities and any area where the animal or fowl is confined or restrained, to remove excreta and other waste materials and dirt, so as to minimize vermin infestation, odors and disease hazards.

6. It is the duty of each person keeping an animal or fowl to provide adequate space, which means primary enclosures and housing facilities shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. The space shall be appropriate for the particular species, however, a minimum of one acre shall be required for any one horse, cow, swine (other than pot bellied pigs if kept as a domesticated pet inside a house), donkey, mule, sheep, goat, bison or buffalo.

7. It is the duty of each person keeping an animal or fowl to provide adequate veterinary care, which means that a sick, diseased, or injured animal or fowl shall be provided with a proper program of care by a veterinarian, or humanely euthanized. All animals or fowl shall be provided with proper immunizations and preventive health care including parasite control.

8. It is the duty of each person keeping an animal to provide adequate water, which means reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner. If potable water is not accessible to the animal or fowl at all times, it shall be provided daily, for such duration and of sufficient quantity as appropriate for the species.

9. It is the duty of each person keeping an animal or fowl to keep the animal or fowl clean and to provide grooming as appropriate for the species.

55.13 CRUELTY TO ANIMALS SPECIFIED. Any person who tortures, torments, deprives of necessary sustenance, mutilates, overdrives, overloads, drives when overloaded, cruelly beats or cruelly kills any animal, or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, or drives or works the same when unfit for labor, or cruelly abandons the same or commits any other act of omission by which unjustifiable pain, distress, suffering or death is caused to any animal is guilty of a misdemeanor.

55.14 DUTY TO REPORT ANIMAL ABUSE OR NEGLECT. It is the duty of any person having knowledge of or observing animal abuse, cruelty or neglect to report such to a local enforcement agent.

55.15 SALE OR DISPOSAL OF LIVE ANIMALS AS PRIZES.

1. No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement, or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

2. No person shall sell, offer for sale, raffle, offer or give as a prize, premium or advertising device or display in any store, shop, carnival or other public place a chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially.

3. No person may sell chickens or ducklings younger than four weeks of age in quantities of less than twenty-five (25) to a single purchaser.

55.16 POISONING OF ANIMALS PROHIBITED. No person shall knowingly expose any poisoned meat, food or other poisoned substances on public or private property where the same may be taken by any human being or domestic animal or fowl.

55.17 DUTIES UPON STRIKING AN ANIMAL. Any person who, as the operator of a motor vehicle, strikes an animal shall report such injury or death to the animal control officer or the Boone Police Department.

55.18 NUISANCES. The following acts and circumstances are hereby declared to be nuisances and therefore prohibited.

1. Keeping of animals or fowl on private property in such numbers or in such manner that allows for the accumulation of solid waste of such animals or fowl, which becomes a detriment to or menace to the health of the animals or fowl, or an annoyance to humans.

2. Allowing any dog, cat or animal to bay, bark, whine or howl or make a sound of any kind or nature for prolonged periods in such manner as to unreasonably disturb the peace and quiet of the vicinity.

3. Allowing pet animals or fowl to cause any damage or defilement to public or private property.

4. Allowing pet animals or fowl to molest any person on public or private property who has a legitimate reason to be thereon.

5. Allowing chickens, ducks or other fowl to crow, quack or make other noises during the night or early morning hours, which annoys residents of the immediate neighborhood.

6. Keeping or harboring of bees.

55.19 ANIMALS IN MOTOR VEHICLES. No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal. The following persons may use reasonable means, including reasonable force, to remove an animal from a motor vehicle when there is an apparent violation of this section.

1. An animal control officer under the jurisdiction of a state or local governing body;

2. A peace officer;

3. A member of a fire or rescue squad.

The person rescuing the animal shall notify the animal control officer, who may take the animal to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

55.20 ANIMAL RELATED EVENTS. No performing animal exhibition, circus, or animal related event shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause injury or suffering. All equipment used on a performing animal shall fit properly and be in good working condition. The animal control officer shall be notified of all public animal auctions and all public events in which animals that perform are exhibited or are available for hire. Where applicable, all animal related events, including public auctions, animal exhibitions, and circuses must comply with

the standards set out in the *Code of Federal Regulations*, Title 9, Part 3, *Animals and Animal Products*.

55.21 ANIMALS IN TRANSPORT. No animal or fowl shall be transported in the open bed of a pickup truck, except when the animal or fowl is secured inside a cage or kennel or is secured by a leash or tether sufficiently short to keep the animal or fowl inside the pickup box at all times. No person shall transport an animal or fowl in a box, container, or cage without proper ventilation and proper space requirements for that animal or fowl. Applicable standards set out in the *Code of Federal Regulations*, Title 9, Part 3, *Animals and Animal Products*, shall apply.

55.22 ANIMAL WASTE. Any person who walks an animal on private or public grounds is responsible for the proper and immediate disposal of the solid waste excreted by that animal, except when the animal is on the owner's or keeper's property. Any person walking an animal must have in their possession, during the time they are walking said animal, a bag or other container to be used for the immediate removal of said solid waste. This section does not apply to animals under control of persons with disabilities which such animals have been specially trained for the purpose of assisting persons with disabilities. ***(Ord. 2114 – Feb. 08 Supp.)***

55.23 NOTIFICATION OF GUARD DOG LOCATION. Any person who harbors a guard dog in an area not adjoining the owner's residence shall post notice of the animal's presence and purpose at the place where the dog is being harbored.

55.24 SHELTER FEES. From time to time there may be established by resolution of the Council a schedule of fees to defray the costs of caring for impounded animals or fowl. Failure or refusal by the owner of an impounded animal or fowl to pay such fees shall constitute a violation of this section.

55.25 HARASSMENT OF ANIMALS. It is unlawful to engage in harassment of an animal or fowl except when this action is deemed necessary to protect persons or their property from the animal or fowl. No person, except the owner of an animal or fowl or his/her authorized agent, shall willfully open any door or gate on any private or public premises for the purpose of enticing or enabling any such animal to leave such premises.

55.26 DISPOSITION OF DEAD ANIMALS. The owner of any dead animal or fowl within the City who fails, neglects or refuses to properly bury or dispose of the same within twenty-four (24) hours after having notice thereof is guilty of a misdemeanor

55.27 PROHIBITED PRACTICE. Any practice and/or procedure designed or intended to increase the aggressiveness and attack propensities of an animal is a misdemeanor.

55.28 VIOLATIONS; PENALTIES.

1. Conviction of a person for violation of any provision of this chapter shall result in the following fines:

First Offense - $100.00.
Second Offense - $150.00
Third Offense - $200.00
Fourth Offense - $250.00

Conviction for a fourth time will result in additional penalties as provided in subsection 2 hereof. ***(Ord. 2059 – Sep. 05 Supp.)***

2. After the third conviction for violation of any provision of this chapter by the same person with respect to any animals or fowl at any site or sites, a proceeding for a fourth violation against that person for a violation of this chapter may include a request to the Court for an order that a specified animal or fowl being kept by the person be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court.

3. An animal or fowl that is a nuisance as declared by Section 55.18 of this chapter or an animal or fowl being kept in circumstances that are a nuisance as declared by said section, may be impounded by the City's animal control officer so as to abate the nuisance. If the keeper of the animal or fowl so impounded is known, a violation of the said section may be charged against that person. Additionally, the enforcement personnel may ask the Court for an order that the animal or fowl be relocated or other disposition made within a reasonable time to be specified in the request for such order.

4. When there is a violation of Section 55.12 of this chapter (*Standard of Care*), the animal control officer may cause an animal or fowl affected by such violation to be taken into protective custody. The owner and/or keeper failing to meet the requirements of said section may be charged with a violation of the section. Additionally, the animal control officer may, in the proceedings brought for violation of said section ask the Court for an order that the affected animal or fowl be relocated or other disposition made within a reasonable time to be specified in the request for such order.

5. The City shall ask the Court to specify in any order directing that an animal or fowl be relocated or other disposition made that during the

time allowed for relocation or other disposition the animal or fowl be kept in conformance with conditions and circumstances as specified in the Court's order, such conditions and circumstances to be reasonably proposed by the City in its request to the Court.

6. When an animal or fowl is impounded or taken into protective custody by the City's animal control officer, the owner of the animal or fowl shall reimburse the City for the expense of nourishing and caring for the animal or fowl while impounded or in the protective custody of the City, and an animal or fowl shall not be released from impoundment or protective custody until the amount of such reimbursement due and payable to the City has been received by the City. If the animal or fowl is not reclaimed and the expense of its care paid to the City within seven (7) from the day the animal or fowl is available for release, the animal or fowl may be euthanized or made available for adoption.

55.29 POLICE CANINE UNIT EXEMPT. The police canine unit of the City's Police Department is exempt from the provisions of this chapter.

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CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS AND REPTILES

56.01 Definitions
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56.14 Traveling Wildlife Menageries, Shows and Petting Zoos

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

1. "Domestic animal" includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds and animals or reptiles raised and/or maintained in confinement.

2. "At large" refers to an animal's or reptile's presence outside of a structure or fixed enclosure used to house or confine the animal or reptile.

3. "Dangerous animal or reptile" means (a) any animal or reptile which is capable of killing, inflicting serious injury upon or causing illness or disease among human beings or domestic animals and having known tendencies (either in its natural state, in the wild or as a tame, feral or domesticated animal) as a species to do so; (b) any animal or reptile which has inflicted serious injury on a person without provocation; (c) any animal or reptile which has at the animal's or reptile's own initiative, killed a domestic animal; (d) any animal owned or harbored primarily or in part for the purpose of fighting; (e) any animal or reptile which by breeding, training, disposition or behavior may pose a potential risk of attacking and inflicting injury without provocation upon people or other animals or reptiles; (f) those animals or reptiles deemed to be dangerous animals or reptiles per se, which include but are not limited to, the following:

A. Lions, tigers jaguars, leopards, cougars, lynx, ocelots, and bobcats.

B. Wolves, coyotes and foxes, and hybrids thereof;

C. Badgers, wolverines, weasels, skunk and mink;

D. Raccoons;

E. Bears;

F. Monkeys, chimpanzees, marmosets and baboons;

G. Bats;

H. Alligators and crocodiles;

I. Venomous snakes and constricting snakes;

J. Gila monsters;

K. Black widow spiders, brown recluse spiders and scorpions;

L. Red and black fire ants and other stinging ants native to Central or South America;

M. Africanized strains of the honey bee.

4. "Euthanize" means to kill in a humane manner, by an authorized veterinarian or the animal control officer.

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

6. "Serious injury" means any illness, disease or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

7. "Unprovoked" refers to an attack or bite not the result of behavior (on the victim's part) intended to irritate the animal or reptile.

8. "Vicious animal or reptile" means any live animal or reptile, not a dangerous animal or reptile as defined in this section that has:

A. Unprovoked, bitten or attacked another animal, reptile or person while running at large;

B. Without reference to provocation or location (i.e. at large or otherwise): (a) bitten or attacked another animal, reptile or person on one separate occasion within a twelve-month period, or (b) bitten or attacked another animal, reptile or person, on any one occasion, despite the owner's attempt to restrain or control the animal or reptile.

With respect to paragraph B above, if the animal or reptile attacked or bitten was running at large or the person attacked or bitten was engaged in an unlawful act prior to the bite or attack, such an incident shall not serve as a basis for declaring the offending animal or reptile a vicious animal or reptile.

56.02 KEEPING OF DANGEROUS ANIMALS OR REPTILES PROHIBITED. It is unlawful for any person to keep a dangerous animal or reptile. Any owner of a dangerous animal or reptile on the date of passage of the ordinance codified in this section is grand-fathered in. However, once the dangerous animal or reptile dies or is euthanized, it may not be replaced.[†] Decisions as to whether a particular animal or reptile is dangerous shall be made by the City animal control officer on the basis of reasonable evidence which may include the opinions of experts. If the animal control officer has reason to believe that the animal or reptile threatens the safety of the public or domestic animals, the animal control officer may enter upon any premises upon which the animal or reptile is kept and remove the animal or reptile from those premises to a place of impoundment. Entry on said premises shall be only with the consent of the person in lawful control of the premises, or after obtaining a search warrant pursuant to law.

56.03 REGISTRATION REQUIRED. All animals or reptiles within the scope of the definition of dangerous animal or reptile shall be registered with the City animal control officer by an adult person responsible for the keeping of the animal or reptile. Failure or refusal to register each such animal or reptile, stating the animal's or reptile's location and identifying characteristics, on forms provided by the animal control officer, shall constitute a violation of this Code of Ordinances. Failure to re-register if the owner is changed, or if the animal or reptile is moved to another location, or to report an animal or reptile as missing, shall also be a violation hereof. The registration of the animal or reptile shall be renewed annually. The premises and facilities where such registered animals or reptiles are kept shall be inspected annually, unless there is reason to believe that animals or reptiles are being improperly kept or cared for, in which case inspections may be made as the animal control officer deems necessary. The City animal control officer may establish a schedule of fees to cover costs of administration and inspection.

56.04 CONFINEMENT STANDARDS. All animals or reptiles within the scope of the definition of "dangerous animal or reptile" shall be confined. If such confinement facilities are indoors, all access doors must be continually locked. When taken outside the premises, the animal must at all time be muzzled and leashed or confined in a vehicle, cage or other animal carrier. If such confinement facilities are outdoors, they must be securely constructed with chain link fences and ceilings and with concrete floors. Entrance gates must be continuously locked. A perimeter fence at least four (4) feet from the primary enclosure must surround all sides of the enclosure not adjacent to a solid wall of a building. However, in no case shall a reptile be taken outside the owner's

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[†] **EDITOR'S NOTE:** Ordinance No. 1939 enacting this chapter was passed and approved by the Council on April 2, 2001.

premises unless in a fully enclosed cage or container clearly marked as to the name of the reptile contained therein and marked *Caution - Dangerous Reptile*.

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS OR REPTILES.

1. The animal control officer, on his or her own information or upon receipt of a complaint alleging that a person owns, is keeping, sheltering or harboring a dangerous animal or reptile in the City limits, may investigate to determine if a person owns, is keeping, sheltering or harboring a dangerous animal or reptile, and if after investigation, the facts indicate that the person in fact owns, is keeping, sheltering or harboring a dangerous animal or reptile, the animal control officer shall order the owner to secure the animal or reptile in a structure or fixed enclosure at all times and do one of the following:

A. Apply for a permit.

B. Within seven (7) days of receipt of the order, permanently place the animal or reptile with a person, organization or governmental entity allowed under this chapter to own, keep, shelter or harbor dangerous animals or reptiles; or

C. Within seven (7) days of receipt of the order, euthanize the animal or reptile.

If the owner unsuccessfully pursues option “A”, the owner shall perform the requirements of option “B” or option “C” within seven (7) days of receipt of the final decision (original or appeal decision) denying the application for a permit. The above-mentioned order shall be contained in a notice to remove the dangerous animal or reptile, which notice shall be given in writing to the owner of the dangerous animal or reptile and shall be personally served upon the owner.

2. Such notice to remove the dangerous animal or reptile shall not be required where such dangerous animal or reptile has previously caused serious injury or death to any person, in which case the animal control officer shall cause the animal or reptile to be immediately euthanized. In the event that a dangerous animal or reptile is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, the animal control officer may (a) seize the animal or reptile and release it to a person or entity authorized to own, keep, shelter or harbor a dangerous animal or reptile, or (b) euthanize the animal or reptile. The choice of which of these options to pursue is left to the discretion of the animal control officer. The animal control officer shall be under no duty to attempt the seizure of a dangerous animal or

reptile found at large prior to euthanizing such animal or reptile, nor does the animal control officer have a duty to notify the owner of such animal or reptile prior to pursuing any of the above options.

3. When, pursuant to the pertinent provisions of subsection 2 of this section, an animal or reptile is seized or euthanized without a prior notice to remove to the owner, the animal control officer or other designated person shall, within seven (7) days thereafter, deliver to the animal or reptile's owner either in person or by certified mail, return receipt requested, a written notice of the action taken and the reasons therefor.

4. If the notice to remove issued by the animal control officer is not complied with within the allotted period of time, and is not appealed, the officer is authorized to seize the animal or reptile and (a) release the animal or reptile to a person authorized to own, keep, shelter or harbor a dangerous animal or reptile, or (b) euthanize the animal or reptile. The choice of which option to pursue is left to the discretion of the animal control officer.

5. Costs incurred by the City for the care, maintenance, transportation and euthanizing of a dangerous animal or reptile owned, kept, sheltered or harbored in violation of this chapter shall be reimbursed to the City by the owner.

56.06 KEEPING OF VICIOUS ANIMALS OR REPTILES PROHIBITED. No person shall own, keep, shelter or harbor for any reason within the City a vicious animal or reptile, as defined in this chapter.

1. The animal control officer of other designated person, on his or her own information or upon receipt of a complaint alleging that a person owns, is keeping, sheltering or harboring a vicious animal or reptile as defined in this chapter may, in said person's discretion, initiate proceedings to declare such animal or reptile a vicious animal or reptile. A hearing on the matter shall be conducted by the Council. The owner of the animal or reptile in question shall be given no less than seventy-two (72) hours' written notice (including Saturday, Sunday and holidays) of the time and place of said hearing. Said notice shall order the owner to secure the animal or reptile in a structure of fixed enclosure at all times. The notice shall set forth a description of the animal or reptile in question and the basis for the allegation of viciousness and shall also notify the owner that should the animal or reptile be determined to be vicious, the owner will be required to euthanize it or allow the City to do so. The notice shall be personally served upon the owner of the animal or reptile.

2. If, after hearing, the Council determines that an animal or reptile is vicious, the Council shall order the owner to cause it to be euthanized or to allow the City to do so. The order shall be served upon the owner against whom issued in the same manner as the notice of hearing. Any decision of the Council may be appealed to the Iowa District Court. The owner of a vicious animal or reptile must appeal the final decision of the Council within thirty (30) days of the date of the final decision by filing a Writ of Certiorari and following certain procedures as outlined in the Iowa Rules of Civil Procedure. ***(Ord. 2038 – Jan. 05 Supp.)***

3. If the order is not complied with within three (3) days of the expiration of the appeal period and no appeal is filed, the animal control officer is authorized to seize and euthanize the animal or reptile. The owner may sign a waiver of his/her appeal rights and the animal or reptile may be euthanized, even though the appeal period has not expired.

(Ord. 2038 – Jan. 05 Supp.)

4. If, after hearing, it has been determined that the animal or reptile properly falls within the category of vicious animal or reptile as defined in this chapter, then all provisions applying to a dangerous animal or reptile shall apply, including confinement and registration.

5. The notice required by subsection 1 of this section shall not be required where such vicious animal or reptile has previously caused serious injury or death to any person, in which case the animal control officer shall cause the animal or reptile to be immediately euthanized. In the event a vicious animal or reptile is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, the animal control officer or other officer may, in his or her discretion, seize and impound such animal or reptile or euthanize it if such seizure and impoundment is not possible or would expose any person to the risk of serious injury. The City shall be under no duty to attempt the seizure of a vicious animal or reptile found at large prior to euthanizing such animal or reptile, nor shall it have the duty to notify the owner of such animal or reptile prior to euthanizing it or seizing and impounding it.

6. When, pursuant to the pertinent provisions of subsection 5 of this section, an animal or reptile is euthanized without a prior notice to the owner, the animal control officer or other officer shall, within seven (7) days thereafter, deliver to the animal's or reptile's owner, either in person or by certified mail, return receipt requested, a written notice of the action taken and the reasons therefor. When pursuant to such

subsection an animal or reptile is impounded without prior notice to the owner, the Council shall, thereafter, initiate proceedings to have the animal or reptile declared a vicious animal or reptile, in the manner provided for in subsection 1 of this section. Thereafter, the procedures contained in subsections 1, 2 and 3, where applicable, shall apply.

7. Any animal or reptile which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. Costs incurred by the City for the care, maintenance, transportation and euthanizing of the vicious animal or reptile owned, kept, sheltered or harbored in violation of this chapter shall be reimbursed to the City by the owner.

56.07 EXEMPTIONS. The following are exempt from these regulations:

1. A person possessing or having custody of a sick or injured animal or reptile in the City solely for the purpose of transporting the animal or reptile to a veterinarian for care, or to an animal shelter, or to a State or Federal facility with authority or apparent authority to handle the animal or reptile.

2. Private veterinarians, animal hospitals or clinics, provided such persons or establishments notify the animal control officer on the same day that they obtain custody of the animal or reptile.

3. Any "research facility" within the meaning of Section 2(e) of the Federal Animal Welfare Act, 7 U.S.C. Sec. 2132(e), licensed by the Secretary of Agriculture of the United States pursuant to the Act.

56.08 REGISTRATION REQUIRED.

1. All animals or reptiles within the scope of Section 56.01(8) shall be registered with the animal control officer by an adult person responsible for the keeping of the animal or reptile. Failure or refusal to register each such animal or reptile, stating the animal's or reptile's location and identifying characteristics on the forms provided by the animal control officer, shall constitute a violation of this Code of Ordinances and be punishable as a simple misdemeanor. Failure to reregister if the owner is changed, or the animal or reptile is moved to another location, or to report an animal or reptile missing, shall also be a violation hereof.

2. The registration of an animal or reptile shall be renewed annually. The premises and facilities where such registered animals or reptiles are kept shall be inspected annually, unless there is reason to believe animals or reptiles are being improperly kept or cared for, in which case

inspections may be made as the animal control officer deems necessary. The animal control department may establish a schedule of fees to cover costs of administration and inspection.

56.09 PROHIBITED ANIMALS OR REPTILES. Registration and keeping of certain animal or reptiles, as specified in this section, shall not be allowed. The keeping of such an animal or reptile shall be a violation hereof and punishable as such. Furthermore, after notice and opportunity for hearing, the animal control officer shall take such animal or reptiles into protective custody pending appropriate disposition.

1. Bears, large cats, and wolves shall not be permitted unless the animal or reptile was being kept prior to the effective date of the ordinance codified in this chapter and the animal or reptile is kept under conditions which meet the security and space requirements of this chapter.

2. Imported mammals shall not be permitted unless the owner shows documentation of entry through a licensed quarantine station and shows an official certification of health.

3. Wild species which are hazards of rabies or plague transmission, e.g. skunks, raccoons, foxes, bats, mongooses and rodents captured in plague endemic areas, shall not be permitted unless there is produced certification by a State or Federal regulatory agency that the animal or reptile was born and maintained continuously in captivity in accordance with all applicable regulations.

56.10 SECURITY STANDARDS. All mammals subject to these regulations shall be kept only in a manner that substantially conforms to the following standards:

1. A sign to identify the species being kept, by its common name, shall be displayed on the holding pen.

2. Mammals shall be kept in locked holding pens or locked cages at all times, except that wild canine and dog crosses may be walked for exercise or transported outside their locked pens or cages only when all of the following conditions are met:

A. The animal is muzzled with a properly fitted muzzle in good repair, designed for fit and condition by animal or reptile control staff;

B. The animal is restrained with both a leash and a harness which are in good condition and of sufficient strength to control its actions;

C. The animal is accompanied by its adult owner who has demonstrated sufficient strength and handling skills to control the animal or reptile;

D. The animal shall not have contact with other animal or reptiles, or with persons other than its owner;

E. Animals which have not attained one (1) year of age by the date the ordinance codified herein took effect, must be neutered;

F. The owner shall submit to inspection at least annually by animal control staff of muzzles, leashes, housing facilities and handling skills for the animal.

3. The following pen and fence requirements apply to mammalian orders as stated. A "C" means that a ceiling is required on the pen. A "P" means that a perimeter fence is required in addition to the pen. A required perimeter fence shall be at least four (4) feet out from, and entirely surrounding the primary holding pen, and shall be at least five (5) feet high. An "N" means that no perimeter fence is required:

A. *Chiroptera* – wood frame cage with 1/4-inch mesh hardware cloth or 3/16-inch plate glass; or large aquarium with fitted wood frame and 1/4-inch mesh hardware cloth top [N, C].

B. *Primates* – wire cage or chain link fence and concrete floor [P, C].

C. *Canidae* – chain link fence and concrete floor [P, C].

D. *Mustelidae* – chain link fence and concrete floor or strong metal cage; for small weasels, aquarium with fitted wood frame and 1/4-inch mesh hardware cloth top or strong metal cage [P, C].

E. *Ursidae* – chain link fence and concrete floor [P, C].

F. *Felidae* (bobcat and ocelot or smaller) – chain link fence and concrete floor [P, C].

4. The perimeter fence is not required if there is a primary holding pen that is located entirely within an enclosed building.

56.11 SPACE REQUIREMENTS. The following table shows the total required combined measurements for holding and exercise enclosures, for which substantial compliance shall be required. For each additional animal, add 25% of the stated amount. Infant animals in pet stores shall be exempt for not more than two weeks:

Species	Floor (square feet)	Height (feet)
Opossum (1-2)	100	4 to 7
Prairie Dog	50	5
Agouti	100	6
Porcupine	150	7
Fox (various species)	125	7
Coyote	200	7
Dingo	200	7
Wolf	2000	7
American Black Bear	3000	10
Kinkajou	80	7
Raccoon and Coati	100	7
Wild Ferrets	25	5
Skunk	100	5
Otter	250	7
Tayra	100	7
Grison	100	7
Cougar	2000	12
Leopard	2000	12
Jaguar	2000	12
Cheetah	2500	12
Lion	2500	12
Tiger	2500	12
Lesser Cats (less than 20 pounds)	100	7
Lesser Cats (more than 20 pounds)	250	7
Wild Goats and Sheep	1500	6
Hyena	500	7
Civet or Mongoose	100	5
Beaver	100	7
Pocket Gopher	25	2
Squirrel	50	7
Woodchuck	50	5
Chipmunk or Ground Squirrel	10	2
Wild Small Rodents (mice, etc.)	5	5
Wild Rabbits and Hares	50	5
Anteater	250	7
Ape	500	10-12
Old World Monkeys or Baboons	500	10-12
New World Monkeys	500	10-12
Lemurs	100	7
Marmoset or Tamarin	100	7
Bats	50	5

56.12 SPACE REQUIREMENTS FOR REPTILES. The following space requirements, for which substantial compliance is required, are applicable to the keeping of reptiles, subject to these regulations:

1. *Helodermatidae* – a cage as wide as and twice as long as the lizard's total length and 12 inches high. For each additional lizard in the same cage, take the floor area needed by the largest occupant and increase it by 25%.

2. Snakes – one-half square foot of floor space per foot of length for a snake up to four (4) feet long. No snake may exceed four (4) feet in length. For each additional snake in the same cage, take the floor area needed by the largest occupant and increase it by 25%.

56.13 PROHIBITED REPTILES. No person shall be permitted to keep venomous reptiles, including reptiles that have had duct legation surgery, reticulated pythons, African Rock pythons, or anacondas.

56.14 TRAVELING WILDLIFE MENAGERIES, SHOWS, AND PETTING ZOOS. Nonresident persons, itinerant shows, traveling menageries, traveling petting zoos, and similar displays of wildlife that travel from place to place shall not bring any dangerous wild animal or reptile, as defined herein, into the City without a permit from the City animal control officer. To obtain that permit an application shall be made in writing to the animal control officer stating the number and species of animals or reptiles, anticipated itinerary, scheduled stops, and the purposes for bringing the animals or reptiles into the City. The permit shall be issued provided the applicant can demonstrate advance compliance with the standards of this Code of Ordinances, or alternatively, meet the Federal standards set out in CFR Title 9, Part 3, *Animal and Animal Products*, including those standards governing the transportation of animals or reptiles, while the applicant's animals or reptiles are within the City. The permit shall be valid for one (1) year, but the animal control officer shall be notified of the time, date and place of each and every exhibition not less than twenty-four hours in advance thereof. Fees shall be differentiated between reasonable classifications and categories of exhibitors when there is a significant difference in costs of administration with respect to each classification.

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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 Boone 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, unless otherwise specifically defined, the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations or persons designated as traffic enforcement officers authorized to issue citations and tow orders or specially designated officers.

(Ord. 2141 – Sep. 09 Supp.)

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 Department.

(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. Traffic control devices shall be placed and maintained as required under this Traffic Code or under State law or for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic.

(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 Director of Public Works 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 Towing Prohibited
62.13 Driving Through Private Property to Evade Controlled Intersections Prohibited

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 – driving without liability coverage.

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

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 321.235A – Electric personal assistive mobility devices.

28. (Repealed by Ord. 2081 – June 06 Supp.)

29. Section 321.256 – Official traffic control signal.

(Ord. 2107 – Aug. 07 Supp.)

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

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

32. Section 321.262 – Damage to vehicle.

33. Section 321.263 – Information and aid.

34. Section 321.264 – Striking unattended vehicle.

35. Section 321.265 – Striking fixtures upon a highway.

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

37. Section 321.278 – Drag racing prohibited.

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

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

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

41. Section 321.298 – Meeting and turning to right.

42. Section 321.299 – Overtaking a vehicle.

43. Section 321.302 – Overtaking and otherwise.

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

45. Section 321.304 – Prohibited passing.

46. Section 321.306 – Roadways laned for traffic.

47. Section 321.307 – Following too closely.

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

49. Section 321.309 – Towing; convoys; drawbars.

50. Section 321.310 – Towing four-wheel trailers.

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

52. Section 321.313 – Starting parked vehicle.

53. Section 321.314 – When signal required.

54. Section 321.315 – Signal continuous.

55. Section 321.316 – Stopping.

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

57. Section 321.319 – Entering intersections from different highways.

58. Section 321.320 – Left turns; yielding.

59. Section 321.321 – Entering through highways.

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

61. Section 321.323 – Moving vehicle backward on highway.

62. Section 321.323A – Approaching certain stationary vehicles.

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 321.353 – Stop before crossing sidewalk – right-of-way.

75. Section 321.354 – Stopping on traveled way.

76. Section 321.359 – Moving other vehicle.

77. Section 321.362 – Unattended motor vehicle.

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

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

80. Section 321.365 – Coasting prohibited.

81. Section 321.367 – Following fire apparatus.

82. Section 321.368 – Crossing fire hose.

83. Section 321.369 – Putting debris on highway.

84. Section 321.370 – Removing injurious material.

85. Section 321.371 – Clearing up wrecks.

86. Section 321.372 – School buses.

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

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

89. Section 321.382 – Upgrade pulls; minimum speed.

90. Section 321.383 – Exceptions; slow vehicles identified.

91. Section 321.384 – When lighted lamps required.

92. Section 321.385 – Head lamps on motor vehicles.

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

94. Section 321.387 – Rear lamps.

95. Section 321.388 – Illuminating plates.

96. Section 321.389 – Reflector requirement.

97. Section 321.390 – Reflector requirements.
98. Section 321.392 – Clearance and identification lights.
99. Section 321.393 – Color and mounting.
100. Section 321.394 – Lamp or flag on projecting load.
101. Section 321.395 – Lamps on parked vehicles.
102. Section 321.398 – Lamps on other vehicles and equipment.
103. Section 321.402 – Spot lamps.
104. Section 321.403 – Auxiliary driving lamps.
105. Section 321.404 – Signal lamps and signal devices.
106. Section 321.404A – Light-restricting devices prohibited.
107. Section 321.405 – Self-illumination.
108. Section 321.406 – Cowl lamps.
109. Section 321.408 – Back-up lamps.
110. Section 321.409 – Mandatory lighting equipment.
111. Section 321.415 – Required usage of lighting devices.
112. Section 321.417 – Single-beam road-lighting equipment.
113. Section 321.418 – Alternate road-lighting equipment.
114. Section 321.419 – Number of driving lamps required or permitted.
115. Section 321.420 – Number of lamps lighted.
116. Section 321.421 – Special restrictions on lamps.
117. Section 321.422 – Red light in front.
118. Section 321.423 – Flashing lights.
119. Section 321.430 – Brake, hitch and control requirements.
120. Section 321.431 – Performance ability.
121. Section 321.432 – Horns and warning devices.
122. Section 321.433 – Sirens, whistles and bells prohibited.
123. Section 321.434 – Bicycle sirens or whistles.
124. Section 321.436 – Mufflers, prevention of noise.
125. Section 321.437 – Mirrors.
126. Section 321.438 – Windshields and windows.

127. Section 321.439 – Windshield wipers.

128. Section 321.440 – Restrictions as to tire equipment.

129. Section 321.441 – Metal tires prohibited.

130. Section 321.442 – Projections on wheels.

131. Section 321.444 – Safety glass.

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

133. Section 321.446 – Child restraint devices.

134. Section 321.449 – Motor carrier safety regulations.

135. Section 321.450 – Hazardous materials transportation.

136. Section 321.454 – Width of vehicles.

137. Section 321.455 – Projecting loads on passenger vehicles.

138. Section 321.456 – Height of vehicles; permits.

139. Section 321.457 – Maximum length.

140. Section 321.458 – Loading beyond front.

141. Section 321.460 – Spilling loads on highways.

142. Section 321.461 – Trailers and towed vehicles.

143. Section 321.462 – Drawbars and safety chains.

144. Section 321.463 – Maximum gross weight.

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

146. Section 321.466 – Increased loading capacity – reregistration.

(Ords. 2048, 2050 & 2053 – Sep. 05 Supp.)

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

(Code of Iowa, Sec. 321.255)

62.03 VEHICLES ON SIDEWALKS. The driver of a motorized vehicle shall not drive upon or within any sidewalk area except at a driveway. Motorized vehicle, for the purposes of this section, shall include but is not

limited to automobiles, trucks, tractors, motorcycles, mopeds, motorized scooters, motorized skateboards, Segway Scooters®, or any vehicle powered by an electric or gas powered engine. It shall not include motorized wheel chairs operated for the purpose of transporting the disabled or motorized lawnmowers.

(Ord. 2001 – Aug. 03 Supp.)

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 TOWING PROHIBITED. It is unlawful for anyone operating a motor vehicle, motorcycle, moped, motorized bicycle, motor bicycle or snowmobile to tow by any means, unless authorized by State statute, another person on a skateboard, skates, moped, motorized bicycle, bicycle, motorcycle, snowmobile, sled, inner tube, toboggan or any other device.

62.13 DRIVING THROUGH PRIVATE PROPERTY TO EVADE CONTROLLED INTERSECTIONS PROHIBITED. No person shall drive

a vehicle from a public street or public right-of-way over, across or through any private roadway, alley or driveway to avoid traffic-control signals, stop signs, or other traffic-control devices or as a route or shortcut from one public street or public way to another. "Private roadway, alley, or driveway" is any roadway, alley, or driveway not dedicated as a public street, roadway, alley, or right-of-way. This shall not apply to the owner of the private roadway, alley, or driveway. ***(Ord. 2050 – Sep. 05 Supp.)***

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 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 Zone – twenty-five (25) miles per hour.

(Ord. 2166 – May 11 Supp.)

3. Suburban District — forty-five (45) miles per hour.

It shall also be unlawful to drive in excess of any speed limits as established under §321.290 of the Code of Iowa as set forth in §63.04 of this code as a special speed restriction zone.

(Ord. 2177 – May 12 Supp.)

63.03 CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public 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 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Park Avenue from Brookridge Street to the McHose/Herman Park entrance.

(Ord. 2166 – May 11 Supp.)

2. 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 Mamie Eisenhower Avenue from Ringold Street to McPherson Street.

B. On Ninth Street (a.k.a. Industrial Road) from Linn Street to Argo Street.

C. On South Marshall Street from a point one-quarter mile south of Hancock Drive to a point where South Marshall Street intersects Highway 30 (which includes the frontage road parallel to Highway 30), thence north one-quarter mile, thence east to Five Mile Drive.

D. On West Eighth Street from Division Street to Jefferson Street.

E. On West Tenth Street from Division Street to Marion Street.

F. On Eighth Street from Harrison Street to Division Street.

G. On College Street from McPherson Street to Division Street.

H. On Marion Street.

I. On Park Avenue from Marion Street to the west McHose/Herman Park entrance.

J. On Park Avenue from the east McHose/Herman Park entrance to Story Street.

K. On Hawkeye Drive from Story Street to South Delaware Street and on Five Mile Drive from South Linn Street to South Delaware Street.

(Ord. 2166 – May 11 Supp.)

L. On South Delaware Street from Five Mile Drive to Southeast Marshall Street.

(Ord. 2005 – Apr. 04 Supp.)

M. On South Linn Street from Highway 30 to the north line of the Southeast Quarter of Section Thirty-three, Township Eighty-four North, Range Twenty-six, West of the 5th P.M.

(Ord. 2166 – May 11 Supp.)

3. 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 Story Street from Mamie Eisenhower Avenue to Union Street.

B. On Mamie Eisenhower Avenue from McPherson Street to Corporal Roger Snedden Drive.

4. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Division Street from Fifteenth Street to Twenty-second Street.

B. On Story Street from Union Street to Highway 30.

C. On Mamie Eisenhower Avenue from the west corporate limits to Ringold Street.

D. On Montana Street from Mamie Eisenhower Avenue to the south corporate limits.

E. On Twenty-second Street from Crawford Street to the east corporate limits.

F. On Eighth Street (a.k.a. Industrial Park Road) from Argo Street to the east corporate limits.

G. On Five Mile Drive from Corporal Roger Snedden Drive to South Delaware Street.

(Ord. 2166 – May 11 Supp.)

H. On South Division Street from end of pavement to Park Avenue.

I. (Repealed by Ord. 2166 – May 11 Supp.)

5. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Corporal Roger Snedden Drive from Mamie Eisenhower Avenue to 3,000 feet south of the centerline of First Street.

6. 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 Mamie Eisenhower Avenue from Corporal Roger Snedden Drive to the east corporate limits.

B. On Twenty-second Street from Division Street to Crawford Street.

C. On Twelfth Street from Marion Street to the west corporate limits.

7. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Story Street from Highway 30 to the south corporate limits.

8. 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 Corporal Roger Snedden Drive from a point 3,000 feet south of the centerline of First Street to the south corporate limits.

B. On Highway 30 according to signage as posted and regulated by Iowa Department of Transportation.

(Ord. 2166 – May 11 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
64.04 No Right Turn on Red

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 Council 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 and at intersections where there are automatic traffic signals.

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

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.

64.04 NO RIGHT TURN ON RED. No driver of any vehicle shall make a right turn at the following intersections when the signal is red.

1. None.

(Ord. 2147 – Sep. 09 Supp.)

Each intersection so designated shall be clearly marked so as to inform all drivers of the restriction for that intersection.

(Ord. 2034 – Jan. 05 Supp.)

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through or Stop Streets
65.02 Stop Intersections
65.03 Yield Required
65.04 School Zones
65.05 Stop Before Crossing Sidewalk
65.06 Stop When Traffic Is Obstructed
65.07 Yield to Pedestrians in Crosswalks

65.01 THROUGH OR STOP STREETS. The following named streets or parts thereof are through or stop streets, and the driver of any vehicle shall stop in obedience to the regulatory signs installed. After stopping, the driver of the vehicle shall only enter into the through or stop street in a cautious manner and at such time as there shall be opportunity to do so without constituting a hazard to any vehicle upon the through or stop street.

1. South side of Twenty-Second Street from the east corporate limits to the west corporate limits.

2. East side of Linn Street at the point where Ninth Street enters therein.

3. South side of West Twelfth Street at the intersection of the Grove Coal Mine Road.

4. Eleventh Street from the west line of Story Street to the west line of Division Street, except the south side thereof at the intersection of Eleventh Street with Division Street.

5. The east and west sides of Marion Street at the point of intersection with West Fifth Street.

6. Park Avenue from the west line of Frances Mason Drive to its intersection with Marion Street, except that the intersection with Division Street shall be designated a four-way stop.

7. Greene Street from the north line of Fourth Street to the south line of Eleventh Street.

8. Benton Street from the north line of Fourth Street to the point north of Eighth Street where Benton Street merges with Linn Street.

9. Linn Street from the point where Benton Street merges with Linn Street north to the south line of Twenty-Second Street.

10. The north and south sides of Eighth Street at the point of intersection with Tama Street and Runven Street.

(Ord. 2119 – Feb. 08 Supp.)

11. The east and west sides of Crawford Street at the point of intersection with Tenth Street.

12. West Eighth Street shall be a through street from Marion Street to the west corporate limits. ***(Ord. 2131 – Sep. 08 Supp.)***

13. The east and west sides of Crawford Street from Thirteenth Street to Twenty-First Street, inclusive.

14. The east and west sides of Marion Street from the south line of West Fourth Street to the north line of West Tenth Street.

15. The east and west sides of Marion Street from the south line of West Mamie Eisenhower Avenue, also known as West Third Street, to the south line of College Street.

16. Montana Street from the south line of Mamie Eisenhower Avenue to the south corporate limits.

17. Division Street from the south line of College Street to the north line of Park Avenue and from the south line of Park Avenue to the south corporate limits.

18. That portion of South Story Street within the City limits between the south line of Hancock Drive and the south corporate limits, except where controlled by a traffic control device (signal).

19. Relocated U.S. Highway 30 from the east corporate limits to the west corporate limits.

20. Eleventh Street from the east line of Story Street to the west line of Linn Street, with stop signs to be erected so as to stop northbound traffic and southbound traffic at the intersection of Eleventh and Marshall; to stop northbound traffic and southbound traffic at the intersection of Eleventh and Tama Streets; and to stop southbound traffic at the intersection of Eleventh and Benton.

21. Division Street from the north line of Eleventh Street to the south line of Twenty-second Street, with stop signs erected to stop the westbound traffic at the intersection of Twelfth and Division; to stop westbound traffic at the intersection of Thirteenth and Division; to stop westbound traffic at the intersection of Fourteenth and Division; to stop westbound and eastbound traffic at the intersection of Fifteenth and Division; to stop westbound traffic at the intersection of Sixteenth and Division; to stop westbound traffic at the intersection of Seventeenth and Division and to stop westbound traffic at the intersection of Eighteenth and Division.

22. Boone Street from the south line of Seventh Street to the north line of Mamie Eisenhower Avenue, with stop signs to be erected to stop eastbound and westbound traffic at the intersection of Fifth and Boone Streets; to stop eastbound and westbound traffic at the intersection of Sixth and Boone Streets; to stop eastbound and westbound traffic at the intersection of Second and Boone Streets; to stop northbound and southbound traffic on Boone Street at its intersections with Union and Twelfth Streets, to stop eastbound and westbound traffic on Union Street at the intersection of Union and Boone Streets; the intersection of Boone Street and First Street shall be a four-way stop intersection.

23. Monona Street shall be a stop street for north-south traffic on Monona Street at its intersections with Sixth Street and Ninth Street.

24. Marshall Street from First Street to Fourth Street and from Fifth Street to Sixth Street inclusive and stop signs shall be erected at the intersections of Second and Marshall Streets, Third and Marshall Streets, Sixth and Marshall Streets and Fifth and Marshall Streets so as to stop all east and westbound traffic at such intersections.

25. That portion of Sixth Street abutting Block 102 of the City, and a stop sign shall be erected at the intersection of the north-south alley in said block so as to stop all traffic entering onto Sixth Street.

26. Sixth Street from Marshall Street to Benton Street shall be a stop or through street at its intersection with Tama Street.

27. All of that portion of Division Street from the north corporate limits to the north line of Eleventh Street; all that portion of Division Street from the south line of Eleventh Street to the north line of Eighth Street; all of that portion of Division Street from the south line of Eighth Street to the north line of Third Street; all that portion of Division Street from the south line of Third Street to the north line of College Street; and from the south side of College Street to the north line of Park Avenue; and from the south line of Park Avenue to the south corporate limits. Stop signs shall be erected at all intersecting streets so as to stop all eastbound and westbound traffic at such intersections. Stop signs shall be erected on Division Street for northbound and southbound traffic at Eleventh Street, Eighth Street, Third Street, College Street, and Park Avenue.

28. Relocated U.S. Highway 30 from the east corporate limits to the west corporate limits.

29. Hancock Drive from the east line of South Story Street to the east line of Section 33 T84N R26W.

30. Mamie Eisenhower Avenue (Fourth Street) from the east corporate limits to the west line of Division Street.

31. West Mamie Eisenhower Avenue (West Third Avenue) from the west line of Division Street to the west corporate limits.

32. That portion of the north side of Sixth Street abutting Block 102 of the City.

33. Seventh Street between the west line of Greene Street and the east line of Division Street.

34. That portion of Eighth Street, also known as Industrial Road, from the east line of Linn Street eastward to the east City limits.

35. Eleventh Street from the west line of Story Street to the west line of Division Street and from the east line of Story Street to the west line of Linn Street except the intersection of Eleventh Street and Division Street is designated a four-way stop.

36. Twenty-second Street from the east corporate limits to the west corporate limits.

37. Benton Street from the south line of Mamie Eisenhower Avenue (Fourth Street) to the north line of First Street and from the south line of First Street to the north line of Aldrich Avenue; and Benton Street from the north line of Mamie Eisenhower Avenue (Fourth Street) north to the point north of Eighth Street where Benton Street merges with Linn Street; and Linn Street from that point north to the south line of Twenty-second Street, except the intersection of Eighth Street and Benton Street is designated a four-way stop.

38. Marshall Street from the north line of Mamie Eisenhower Avenue (Fourth Street) to the south line of Seventh Street, from the south line of Hancock Drive to the north line of Hawkeye Drive and from the south line of Hawkeye Drive to the west line of South Linn Street.

(Ord. 1993 – Aug. 03 Supp.)

39. Story Street from the south corporate limits to the north corporate limits.

40. Boone Street from the south line of Third Street to the south line of Mamie Eisenhower Avenue and from the north line of Mamie Eisenhower Avenue to the south line of Seventh Street.

41. Greene Street from the north line of Mamie Eisenhower Avenue (Fourth Street) to the south line of Twenty-second Street, except the intersection with Eleventh Street.

42. Crawford Street from the north line of Mamie Eisenhower Avenue (Fourth Street) north to the south line of Twenty-second Street, except the intersection with Seventh Street and Eleventh Street.

43. Division Street from the north corporate limits to the south corporate limits, except the intersections of Park Avenue, Mamie Eisenhower Avenue (Fourth and West Third Streets), Eighth Street and Eleventh Street.

44. Marion Street from the north line of West Mamie Eisenhower Avenue (West Third Street) to the north line of West Tenth Street.

45. Montana Street from the south line of West Mamie Eisenhower Avenue (West Third Street) to the south corporate limits.

46. Greene Street from the south line of Mamie Eisenhower Avenue (Fourth Street) to the south line of Lincoln Avenue.

47. Cedar Street from the south line of Mamie Eisenhower Avenue (Fourth Street) to the south line of Southeast Linn Street.

48. The street running along the east line of Sections 27 and 34, T84N R26W and Section 3 T83N R26W, from Mamie Eisenhower Avenue (old Highway 30) extending to the south corporate limits (known locally as Airport Road).

49. First Street from the east line of Story Street east to a point thirty-three feet east of the west line of Section 26-84-26 (Airport Road), except the intersection of First Street and Cedar Street is designated a four-way stop.

50. Tama Street from the north line of Eleventh Street to the south line of Twenty-second Street.

51. Park Avenue from the east line of Story Street to the west line of Country Club Drive. Stop signs shall be erected at the appropriate place regulating north-south traffic on Marshall Street from Division Street to Marion Street.

52. Tenth Street from Division Street to Marion Street.

53. Southeast Marshall Street from the east line of South Marshall Street to the intersection with U.S. Highway 30, except where it intersects with South Linn Street.

54. South Linn Street from the south line of Hancock Drive to the north line of Hawkeye Drive and from the south line of Hawkeye Drive to the north line of Southeast Marshall Street. ***(Ord. 1995 – Aug. 03 Supp.)***

65.02 STOP INTERSECTIONS. Stops are required at the following intersections:

(Code of Iowa, Sec. 321.345)

1. The intersection of Eleventh Street and Division Street is a stop intersection for all westbound traffic on Eleventh Street.

2. The intersections of Sixth and Carroll Streets and Seventh and Carroll Streets are stop intersections for traffic on Carroll Street.

3. The intersection at Eighth Street and Cedar Street is a stop intersection for traffic on Cedar Street.

4. The north and south sides of Eighth Street at the point of intersection with Benton, Harrison, Monona, Crawford and Carroll Streets.

5. The north and south sides of Union Street at the point of intersection with South Marshall Street.

6. The north and south sides of Seventh Street at the point of intersection with Tama Street.

7. The east and west sides of Cedar Street at the point of intersection with First Street.

8. North and south sides of Thirteenth Street at the point of intersection with Clinton Street.

9. At the east right-of-way line of the intersection of Country Club Drive and Park Avenue (a stop sign shall be erected causing westbound traffic on Park Avenue to stop at said east right-of-way line).

10. Eastbound and westbound traffic on West Second Street at its intersection with McPherson Street.

11. North side of Park Avenue at the point of intersection with Herman Park Drive and for eastbound and westbound traffic on Park Avenue at its intersection with Herman Park Drive and Frances Mason Drive.

12. The north and south sides of Tenth Street as it intersects with Carroll Street and the south side of Ninth Street where it intersects with Carroll Street. Carroll Street north of Ninth Street will be signed as "Do Not Enter." ***(Ord. 2121 – Feb. 08 Supp.)***

13. West side of Kate Shelley Drive where it intersects with Frances Mason Drive for eastbound traffic on Frances Mason Drive.

14. Eastbound traffic on Southeast Marshall at its intersection with South Linn Street.

15. Southbound traffic on South Linn at its intersection with Southeast Marshall Street and for southbound and northbound traffic at its intersection with Hawkeye Drive. ***(Ord. 1995 – Aug. 03 Supp.)***

16. Eastbound and westbound traffic on West Fourth Street at its intersection with McPherson Street.

17. Westbound traffic on Southeast Marshall at its intersection with South Linn Street.

18. Traffic on Crown Flair Drive at its intersection with U.S. Highway 30.

19. Traffic on Oakview Road at its intersection with Lakewood Drive.

20. Traffic on Lakewood Drive at its intersection with Crown Flair Drive.

21. West Fifth Street at its intersection with McPherson Street.

22. West Sixth Street at its intersection with McPherson Street.

23. West Seventh Street at its intersection with McPherson Street.

24. The intersection of College Street with McPherson Street is a stop intersection for southbound traffic on McPherson Street.

25. The intersection of College Street with East Street is a stop intersection for northbound traffic on East Street.

26. The intersection of College Street with Clay Street is a stop intersection for northbound traffic on Clay Street.

27. The intersection of College Street with Main Street is a stop intersection for east-west traffic on College Street.

28. The intersection of Eighth and Allen Streets is a four-way stop, and Allen Street is a stop street for northbound traffic where it intersects with Ninth Street.

29. The intersection of Argo Street and the Chicago and Northwestern Transportation Company railroad is a stop intersection and the intersection of State Street and the Chicago and Northwestern Transportation Company railroad is a stop intersection.

30. The intersection of College Street and State Street is a stop intersection for traffic eastbound and westbound on College Street.

31. The intersection of Aurora Street and First Street is a stop intersection for traffic northbound on Aurora Street.

32. The intersection of Second and Crawford Streets is a four-way stop intersection.

33. The intersection of Story Street Frontage Road and Hawkeye Drive is a stop intersection for traffic moving in a northbound or a southbound direction on the frontage road.

34. The intersection of Story Street frontage road and Kate Shelley Drive is a stop intersection for traffic northbound on the frontage road.

35. The intersection of Eighth Street and Greene Street is a stop intersection for northbound and southbound traffic on Greene Street.

36. The intersection of Eighth Street and Keeler Street is a stop intersection for north-south traffic on Keeler Street.

37. The intersection of Eighth Street and Arden Street is a stop intersection for north-south traffic on Arden Street.

38. The intersection of Story Street and Tenth Street is a stop intersection for eastbound and west bound traffic on Tenth Street.

39. Northbound traffic shall stop at the north exit from McHose Park onto Park Avenue.

40. At the Municipal Swimming Pool, traffic shall stop 60 feet north of the flag pole on the west side of Frances Mason Drive and 70 feet west of the flag pole on the south side of Frances Mason Drive.

41. Traffic shall stop at all exits onto Hawkeye Drive from private or public drives or parking lots.

42. The intersection of Kate Shelly Drive and S. Marshall Street is a stop intersection for all westbound traffic on Kate Shelly Drive.

43. The intersection of Kate Shelly Drive and S. Linn Street is a stop intersection for all eastbound traffic on Kate Shelly Drive.

44. The intersection of Five Mile Drive and S. Linn Street is a stop intersection for all westbound traffic on Five Mile Drive.

45. The intersections of Delaware and Second and Third Streets shall be a stop intersection for east-west traffic on Second and Third Streets. ***(Ord. 2130 – Feb. 08 Supp.)***

46. The intersection of South Delaware Street and Five Mile Drive is a stop intersection for northbound traffic on South Delaware Street and a stop intersection for southbound traffic on South Delaware Street at its intersection with Southeast Marshall Street. ***(Ord. 2130 – Feb. 08 Supp.)***

47. The intersection of Hawkeye Drive and Delaware Street is a stop intersection for all eastbound traffic on Hawkeye Drive and for all east-west traffic on Hawkeye Drive at its intersection with South Linn Street.
(Ord. 1995 – Aug. 03 Supp.)

48. The intersection of South Jackson and Southeast Linn Street is a stop intersection for northbound and southbound traffic on South Jackson. ***(Ord. 1980 – Mar. 03 Supp.)***

49. The intersection of South Marshall Street and Hawkeye Drive is a stop intersection for northbound and southbound traffic on South Marshall Street and for eastbound and westbound traffic on Hawkeye Drive. ***(Ord. 1993 – Aug. 03 Supp.)***

50. The intersections of Aldrich Avenue and Marshall Street are stop intersections for all eastbound and westbound traffic on Aldrich Avenue.

51. The intersection on Prairie Avenue and Marshall Street is a stop intersection for all eastbound traffic on Prairie Avenue.

52. The intersection on Lincoln Avenue and Marshall Street is a stop intersection for all eastbound traffic on Lincoln Avenue.
(Ord. 2195 – Dec. 14 Supp.)

65.03 YIELD REQUIRED. Yield signs shall be placed on the following streets at the intersection designated:
(Code of Iowa, Sec. 321.345)

1. On Marshall Street, southeast corner only, at its intersection with Seventh Street.

2. On the north-south approach on Clinton Street at its intersection with Seventh Street.

3. On the east-west approach of Fifth Street with Carroll Street.

4. On the east-west approach on Twentieth Street with Marshall Street.
(Ord. 2195 – Dec. 14 Supp.)

65.04 SCHOOL ZONES.

1. Zones Designated. The following school zones are established:

A. Sacred Heart School. From the centerline of Story Street to the centerline of Marshall Street and from a line one hundred twenty (120) feet south to the south line of Twelfth Street to the centerline of Twelfth Street; also from the centerline of the alley in Block 45 to the centerline of Marshall Street and from the

centerline of Eleventh Street to a line one hundred twenty (120) feet south of the south line of Twelfth Street.

B. Trinity Lutheran School. From the centerline of Greene Street to the centerline of Boone Street and from the centerline of Eleventh Street to the centerline of Twelfth Street.

C. Franklin School. From three hundred (300) feet west of the west line of Crawford Street to the centerline of Crawford Street and from the centerline of Nineteenth Street to the centerline of Twentieth Street; also from three hundred (300) feet west of the west line of Crawford Street to the west line of Crawford Street and from the centerline of Twentieth Street to the centerline of Twenty-first Street.

D. Lincoln School. From the centerline of Marion Street to a line three hundred (300) feet east of the east line of Marion Street and from the centerline of West Mamie Eisenhower Avenue to the centerline of West Fourth Street; also from a line three hundred (300) feet east of the east line of Marion Street to a line four hundred fifty-five (455) feet east of the east line of Marion Street and from the north line of West Mamie Eisenhower Avenue to the south line of West Fourth Street.

E. Page School. From the centerline of South Boone Street to the centerline of the alley in Block 2, Phelan's First Addition to the City of Boone, Iowa, and from the centerline of Union Street to the centerline of First Street.

F. Boone Junior-Senior High School. From the centerline of Monona Street to the centerline of Crawford Street and from the centerline of Sixth Street to the centerline of Seventh Street; also from the centerline of Crawford Street to a line one hundred fifty-seven (157) feet east of the east line of Crawford Street and from the north line of Sixth Street to the south line of Seventh Street.

G. Boone Middle School. From the centerline of Jackson Street to the centerline of Brainard Street on First Street.

(Ord. 2166 – May 11 Supp.)

2. Placement of Signs. At or near the locations designated in subsection 1, there shall be placed signs either of a stationary or movable type informing the public of the existence of school zones and of any specific actions they must take including special stops during designated school hours. These signs shall conform to the recommended standards of the Department of Transportation, in conformance with the *Iowa Manual on Uniform Traffic Control Devices*.

3. Hours for Placement of Movable Signs. Any movable signs designated in subsection 2 shall be placed or operated at the places designated from 7:30 a.m. until 4:00 p.m. on days school is in session.

4. Vehicles to Stop. All vehicles approaching the zones designated in subsection 1 shall obey any sign so placed whether stationary or movable, including but not limited to movable stop signs placed where designated as provided herein.

5. Exemptions. Fire trucks and other fire department vehicles, police patrols or police cars, when going to a fire or answering police calls, are exempt from the provisions of this chapter on condition that notice of the approach of such vehicles to the school zones is given by the sounding of a loud siren, bell or other loud signaling device.

6. Responsibility for Placement of Signs. All stationary signs shall be placed in the areas designated in subsection 1 according to the standards as established by the Department Of Transportation in conformance with the *Iowa Manual on Uniform Traffic Control Devices*. All movable signs shall be placed where designated by the Police Chief, in accordance with the laws of the State of Iowa. All movable signs so placed shall be under the supervision of the Police Chief. Any designees employed directly by the Boone Community School District must receive permission from the Superintendent of Schools also.

7. Duties of Operator. The persons so designated to be in control of and to place or operate movable traffic signs shall wear whatever protective clothing or identification devices as directed by the Police Chief. All persons so designated shall also report all violations of the directions contained upon the signs so placed to the Police Chief or a police officer, to include the name of the offender if known, the license number of the offending vehicle, a description of said vehicle and any other information which the person may feel pertinent.

65.05 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)

65.06 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

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

(Code of Iowa, Sec. 321.327)

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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
66.05 Truck Route
66.06 Story Street

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

(Code of Iowa, Sec. 321.471 & 472)

66.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The City Engineer 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 the amounts specified on such signs upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

"NONE"

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 City Engineer may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. Truck route regulations are established as follows: *(Code of Iowa, Sec. 321.473)*

1. Truck Routes Designated. Every motor vehicle weighing one and one-half (1½) tons or more, when loaded or empty, and having a box for the purpose of transporting goods or merchandise of a size of seven (7) feet by fourteen (14) feet or larger having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

A. Story Street from Highway 30 to Fourth Street.

B. Eleventh Street from Linn Street to Division Street.

C. Green Street from Fourth Street to Eleventh Street.

D. Division Street from West Third Street to Twenty-second Street.

E. Twenty-second Street from Division Street to Linn Street.

F. Linn Street from Twenty-second Street to Industrial Park Road.

G. Industrial Park Road to the east City limits.

H. Corporal Roger Snedden Drive from Highway 30 to Fourth Street.

I. Montana Street from Highway 30 to West Third Street.

J. West Third Street from Montana Street to Division Street.

K. Division Street from West Third Street to the east City limits.

L. Mamie Eisenhower Avenue, also known as Fourth Street, from the east corporate limits to the west corporate limits.

M. First Street from Corporal Roger Snedden Drive west to Brainard Street and then north on Brainard Street to Mamie Eisenhower Avenue.

(Ord. 2080 – June 06 Supp.)

2. Deliveries Off Truck Route. Any motor vehicle weighing one and one-half (1½) tons or more, when loaded or empty, and having a box for the purpose of transporting goods or merchandise of a size of seven (7) feet by fourteen (14) feet or larger having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set

out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

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

66.06 STORY STREET. No truck or other commercial vehicle shall be operated upon Story Street from Mamie Eisenhower Avenue (a.k.a. Fourth Street) to Twenty-second Street. Trucks or other commercial vehicles may have access to buildings situated on Story Street by the closest numbered street intersecting with Story Street and may be driven across Story Street, but shall in no manner be operated in a general north or south direction upon such portion of Story Street.

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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. The alley east of Allen Street is northbound only between Seventh Street and Ninth Street.

2. The alley between Story Street and Keeler Street is northbound only between Seventh Street and Ninth Street.

3. The alley in Block 125, Original Boone, is northbound only.

4. The south one hundred fifty (150) feet of the alley between Allen Street and Story Street is northbound only between Eighth Street and Ninth Street.

5. The alley between Allen Street and Story Street is southbound only between Seventh Street and Eighth Street.

6. The alley between Keeler Street and Arden Street is southbound only between Seventh Street and Ninth Street.

7. The south one hundred twenty-five (125) feet of the north-south alley in Block 78, Original Boone, is southbound only.

8. South Boone Street from Union Street to First Street when appropriate portable signage is in place. ***(Ord. 2043 – Jan. 05 Supp.)***

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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 Night Parking Prohibited
69.10 Truck Parking Limited
69.11 Parking Limited To Fifteen Minutes
69.12 Parking Limited To Two Hours
69.13 Parking Limited To Twenty-Four Hours
69.14 Parking Prohibited During Certain Times
69.15 Area Between Lot Line and Curb Line
69.16 Parking Lots
69.17 Parking Prohibited Within Sidewalk Line
69.18 Bus, Taxi and Public Loading Zones
69.19 Reserved Parking Spaces
69.20 Motorcycle and Moped Parking
69.21 Snow Removal
69.22 Emergency Snow Parking Regulations
69.23 Snow Routes
69.24 Fire Lanes
69.25 Objectionable Vehicles
69.26 Private Parking Lots
69.27 Permit Parking

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

(Code of Iowa, Sec. 321.361)

69.02 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. Allen Street, on both sides, from Seventh Street to Eighth Street.

2. Keeler Street, on the east side, from Seventh Street to Eighth Street.

3. Keeler Street, on the west side, from Eighth Street to Ninth Street.

4. Eighth Street, on both sides, from Benton Street to Greene Street except on the north side from the west line of Benton Street to a point one hundred sixty (160) feet west and except from the east line of Allen Street to the alley east of Allen Street on the north side of Eighth Street.

(Ord. 1986 – Aug. 03 Supp.)

5. Arden Street, on both sides, from Seventh Street to Eighth Street.

6. Arden Street, on the west side, from Eighth Street to Ninth Street.

7. Fifth Street, on the north side only, from fifty (50) feet east of the east line of Story Street to one hundred twenty (120) feet east of the east line of Story Street.

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 any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

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

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

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

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

7. Fire Hydrant. Within five (5) feet of a fire hydrant. (The distance shall be measured from a point perpendicular to the center of the hydrant at the curb line or edge of traveled portion of the roadway five feet in either direction along said curb or edge of roadway.)

(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 any alley except for such time as is required for the prompt loading or unloading of the vehicle and provided that such vehicle is in the charge of the driver.

(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. 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, handicap placard, handicap sticker, or handicap license plate, 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.

D. Improper display of a handicap placard, handicap sticker, or handicap license plate in violation of the Iowa Administrative Code, §761-411.3(2). ***(Ord. 2017 – Apr. 04 Supp.)***

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.

4. Street Spaces. The following are hereby designated as persons with disabilities parking spaces:

A. 9th Street, south side, 1st and 2nd parking spaces north of Allen Street.

B. 8th Street, north side, 1st space east of Greene Street.

C. 8th Street, south side, 1st space east of Arden Street.

D. 8th Street, north side, 1st space east of Keeler Street.

E. 8th Street, south side, 7th space east of Story Street.

F. 8th Street, north side, 3rd space west of Runyon Street.

G. 8th Street, south side, 6th space west of Tama Street.

H. 7th Street, north side, 1st space east of Story Street.

I. 7th Street, south side, 1st space west of Story Street.

J. 7th Street, north side, 1st space east of Keeler Street.

K. 7th Street, north side, 1st space west of Arden Street.

L. 7th Street, north side, 1st space east of Greene Street.

M. Greene Street, east side, 1st space north of 6th Street.

N. Arden Street, west side, 1st space north of 8th Street.

O. Arden Street, west side, 6th space south of 8th Street.

P. Arden Street, west side, 1st space north of 7th Street.

Q. Keeler Street, west side, 1st space south of 9th Street.

R. Keeler Street, west side, 6th and 7th spaces south of 9th Street.

S. Story Street, east side, 4th space south of 9th Street and on the west side, 1st space north of 8th Street. ***(Ord. 2134 – Sep. 08 Supp.)***

T. Allen Street, east side, 1st space south of the fire department driveway. ***(Ord. 2090 – Dec. 06 Supp.)***

U. Benton Street, east side, first 25 feet north of north line of Fourteenth Street.

V. ***(Repealed by Ord. 2090 – Dec. 06 Supp.)***

W. One space located 122 feet south of the south line of Ninth Street on the west side of Arden Street. ***(Ord. 1997 – Aug. 03 Supp.)***

X. An area located from 22 feet to 100 feet north of the north line of Twelfth Street on the west side of Marshall Street.
(Ord. 2004 – Aug. 03 Supp.)

Y. One space located on the south side of Seventh Street in the first space east of the first driveway east of Crawford Street.
(Ord. 2019 – Sep. 04 Supp.)

Z. Two spaces located on the east side of Division Street from 21 feet south of the south line of Sixth Street to 65 feet south of the south line of Sixth Street. ***(Ord. 2027 – Sep. 04 Supp.)***

AA. An area commencing 80 feet north of the north right-of-way of Sixth Street and ending 115 feet north of the north right-of-way of Sixth Street on the west side of Boone Street. ***(Ord. 2058 – Sep. 05 Supp.)***

BB. One space on the south side of Seventh Street commencing 53 feet west of the centerline of Crawford Street and one space commencing 107 feet west of the centerline of Crawford Street.
(Ord. 2096 – Aug. 07 Supp.)

CC. One space on the north side of 10th Street that is closest to the south facing entrance of 917 10th Street. ***(Ord. 2194 – Dec. 14 Supp.)***

5. Parking Lot Spaces. The following are hereby designated as persons with disabilities parking spaces:

A. Lot 1 – Greene Street Parking Lot - 6 Spaces.

(1) 1st and 2nd spaces in center parking bay, south side, on 8th Street entrance and last space at west end in center parking bay, south side, on Greene Street entrance.

(2) 1st space in south parking bay, north side, on 8th Street entrance and last two spaces on west end of south parking bay, on both north and south sides, on Greene Street entrance.
(Ord. 2062 – Sep. 05 Supp.)

B. Lot 2 – 6th and Marshall Street Parking Lot – 2 Spaces.

(1) 1st space, north side, on Marshall Street entrance.

(2) 1st space, south side, on Marshall Street entrance.

C. Lot 5 – 9th and Arden Street Parking Lot – 2 Spaces.

(1) 1st and 2nd spaces in south bay, south side of south alley entrance.

D. Lot 7 – 7th and Allen Parking Lot – 1 Space.

(1) 1st space in south parking bay, south side, on Allen Street entrance.

E. Lot 8 – West Side of Allen Street between 7th and 8th Streets – 1 Space.

(1) 1st space, south side, on Allen Street entrance.

F. Lot 9 – 9th and Keeler Street Parking Lot – 4 Spaces.

(1) 1st, 2nd, 3rd, and 4th spaces on south side and west of East 9th Street entrance.

G. Lot 10 – Home Office Parking Lot – 2 Spaces.

(1) 1st space in north parking bay on south side of North Keeler Street entrance.

(2) 1st space in south parking bay on south side of South Keeler Street entrance.

H. Lot 11 – Keeler Street between 8th & 9th Streets – 1 Space.

(1) 1st space north of Keeler Street entrance.

I. Lot 13 – Fire Department Parking Lot – 2 Spaces.

(1) 1st space in south parking bay on north side of South Allen Street entrance.

(2) A 48-hour space located in the north bay of Lot 13 in the first space south of the South Allen Street entrance.

(Ord. 1996 – Aug. 03 Supp.)

6. Spaces Outside Downtown Area. The following are hereby designated as persons with disabilities parking spaces:

A. Two spaces on the west side of Boone Street at the intersection of 20th Street and Boone Street.

B. 1st and 2nd spaces on the west side of State Street south of the east pedestrian entrance to the Boone County Court House.

C. 1st and 2nd spaces on the west side of State Street north of the east pedestrian entrance to the Boone County Court House.

D. 1st space west of State Street on the north side of West 1st Street.

E. One space on 5th Street on the south side of Bryant School.

F. The first space on the west side of Boone Street south of First Street on the west side of Page School.

(Ord. 2043 – Jan. 05 Supp.)

G. Two spaces on the north side of 12th Street south of Trinity School.

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.

1. On both sides of Mamie Eisenhower Avenue (Fourth Street) from the east City limits to the west line of Division Street.

2. On both sides of Mamie Eisenhower Avenue (West Third Street) from the west line of Division Street to the west City limits except in those blocks between the west line of Marion Street and the east line of Main Street, except there shall be no parking on the north side of West Mamie Eisenhower Avenue from 42 feet west of the west line of State Street to 165 feet west of the west line of State Street and on the south side of West Mamie Eisenhower Avenue from the west line of State Street to 40 feet west of the west line of State Street and from 109 feet west of the west line of State Street to 166 feet west of the west line of State Street.

3. On the south side of Eleventh Street from Story Street to Linn Street.

4. On the south side of Seventh Street between Marshall and Benton Streets, except for two stalls along the west half of Lot 1 of Block 99, which stalls shall be appropriately marked.

5. On the west side of Greene Street between Mamie Eisenhower Avenue and Sixth Street.

6. On the south side of Fifteenth Street between Story Street and Boone Street.

7. On the north side of Eleventh Street between Story Street and Boone Street.

8. On the south side of Sixth Street between Marshall Street and Tama Street.

9. On the south side of West Second Street from State to Main Street.

10. On the east side of Division Street between Mamie Eisenhower Avenue (Fourth Street) and Sixth Street and on the west side of Division Street between West Mamie Eisenhower Avenue (West Third Street) and West Fifth Street.

11. On the east side of Monona Street between Eleventh Street and Twelfth Street.

12. On the east side of Carroll Street from Fourth Street to First Street.

13. On the north side of Sixth Street between Marshall Street and the first alley west thereof.

14. On the west side of Boone Street between Fourth Street and Seventh Street and between Eleventh Street and Twelfth Street.

15. On the east side of Boone Street between First Street and Fourth Street.

16. On the north side of Thirteenth Street from the west line of the sidewalk running north and south on the west side of Crawford Street and running thirty feet west.

17. On Story Street from the south corporate limits to Mamie Eisenhower Avenue.

18. On the west side of Marshall Street from Fourth Street to First Street. ***(Ord. 2190 – Dec. 14 Supp.)***

19. On the east side of Benton Street from Fourth Street to Fifth Street and commencing at the north line of Fourteenth Street 40 feet north on the west side of Benton Street.

20. On the east side of Story Street from Twelfth Street to Twenty-second Street.

21. On the north side of west Seventh Street from the west line of Clay Street extended to Jefferson Street.

22. On both sides of South Marshall Street from Prairie Avenue to First Street. ***(Ord. 2190 – Dec. 14 Supp.)***

23. On both sides of Linn Street from the north line of Ninth Street to the south line of Fifteenth Street, Blair's Sixth Addition.

24. On the west side of Cedar Street between the south line of Eighth Street and the south line of South Cedar Street at the Boone Golf and Country Club.

25. On the west side of Story Street, commencing at the north line of Mamie Eisenhower Avenue and extending north to the south line of Fifth Street.

26. On the east side of Greene Street, commencing at the north line of Eleventh Street and extending north to the south line of Thirteenth Street and from Fourth Street to Union Street.

27. On the east side of Monona Street commencing at the north line of Twelfth Street and extending north to the south line of Fifteenth Street.

28. On the north side of First Street between Marshall Street and Tama Street and on both sides of First Street from Greene Street west to the alley. ***(Ord. 1987 – Aug. 03 Supp.)***

29. On the east side of Tama Street between First Street and Union Street and upon the east side of South Tama Street between Union Street and Aldrich Avenue.

30. On the south side of Union Street between the east line of South Marshall Street and the west line of Benton Street.

31. On the south side of Seventh Street between the west line of Monona Street and the east line of Division Street and on West Seventh Street between the west line of Division Street and the east line of Main Street.

32. On the north side of West Fourth Street between Morton Street and McPherson Street.

33. On the north side of Seventh Street between Harrison Street and Monona Street.

34. ***(Repealed by Ord. 2103 – Aug. 07 Supp.)***

35. On north side of Sixth Street between Crawford Street and Carroll Street.

36. On the north and west side of Kate Shelley Drive from the west line of Lot 25, Timberlane First Subdivision to Doran Drive and on the north and south sides of Kate Shelley Drive from South Marshall Street to South Linn Street, except for three (3) parking spaces on the south side just east of South Marshall Street. ***(Ord. 2122 – Feb. 08 Supp.)***

37. On the west and south sides of Doran Drive from Kate Shelley Drive to a point lying easterly 175 feet of the N.W. corner of Lot 32, Timberlane First Subdivision of the City and on the east and north sides of Doran Drive from Kate Shelley Drive to a point lying easterly 217 feet and northerly 60 feet of the N.W. corner of Lot 32, Timberlane First Subdivision.

38. On the south side of Hancock Drive from South Story Street to 150 feet east of the east line of South Marshall Street and on the south side from 24 feet west of the west driveway to Hancock Apartments to

24 feet east of the east driveway to Hancock Apartments and on both sides of Hancock Drive from South Jackson Street to South Linn Street. ***(Ord. 2065 – Jan. 06 Supp.)***

39. On the south side of Thirteenth Street between Linn Street and Cedar Street.

40. On the east side of Morton Street between west Mamie Eisenhower Avenue (West Third Street) and West Fourth Street.

41. On the east side of Marion Street between Mamie Eisenhower Avenue (West Third Street) and West Seventh Street.

42. On the south side of Eighth Street from the intersection of Eighth and Crawford Street to the alley between Crawford Street and Carroll Street.

43. The north-south alley in Block 112 Original Boone.

44. On both sides of Hawkeye Drive from South Story Street to South Marshall Street.

45. On both sides of Benton Street from 189 feet south of Eighth Street to the north line of Ninth Street (Industrial Road).

46. On the south side of First Street from South Story Street to South Boone Street.

47. On South Marshall Street from Crestwood Drive north for a distance of 300 feet, on the east side of South Marshall Street from Kate Shelley Drive to Hawkeye Drive, and on the west side of South Marshall Street from Hawkeye Drive south 110 feet. ***(Ord. 2086 – Dec. 06 Supp.)***

48. On the west side of Crawford Street between Nineteenth and Twentieth Streets.

49. On the north side of Seventh Street between Clinton and Jackson Streets.

50. On both sides of Eighteenth Street from Greene Street to Monona Street.

51. On both sides of First Street from Marshall to Tama Streets.

52. On both sides of Park Avenue from the east line of South Marshall Street to the east line of Country Club Drive, on the north side from Story Street to Frances Mason Drive, and on both sides from Frances Mason Drive west to Division Street..

53. On the north side of Union Street from the alley in Block 2, Phelan's First Addition to the City, west to the bus loading zone located from Boone Street east 30 feet.

54. On the east side of Boone Street from Union Street to First Street, except for the loading zone which permits parking for 30 minutes from 3:00 p.m. to 3:30 p.m. only on school days.

55. On both sides of First Street from Marshall Street to Story Street.

56. On the south side of Sixth Street from Linn Street to Cedar Street.

57. On the north side of Fifth Street from the alley in Block 147, Blair's Third Addition to the City, to Cedar Street.

58. On the east side of Linn Street from the north line of Lot 6, Block 147, Blair's Third Addition to the City, to Sixth Street.

59. On the west side of Crawford Street from Nineteenth Street to Twenty-first Street.

60. On the south side of that portion of West Fourth Street which abuts Lincoln School grounds.

61. On the south side of Fifteenth Street between Benton Street and Linn Street.

62. On the west side of Linn Street between Fifteenth Street and Fourteenth Street.

63. On the north side of Fourteenth Street between Benton Street and Linn Street.

64. On the east side of Benton Street between Fourteenth Street and Fifteenth Street.

65. ***Repealed by Ord. No. 2072 – Jan. 06 Supp.***

66. ***Repealed by Ord. No. 2072 – Jan. 06 Supp.***

67. ***Repealed by Ord. No. 2072 – Jan. 06 Supp.***

68. ***Repealed by Ord. No. 2072 – Jan. 06 Supp.***

69. On the north side of Sixth Street between Harrison Street and Crawford Street.

70. On the east side of Monona Street between Seventh Street and Sixth Street.

71. On the east side of Greene Street between Eighth Street and Ninth Street.

72. On the south side of Seventh Street between Crawford and Monona Streets except that parallel parking is permitted on said street on Sunday.

73. From the west line of Marshall Street to the east line of the north-south alley in Block 45 of Blair's Addition to the City.

74. On West Eighth Street from Division Street to Marion Street.

75. On the south side of Second Street between Division Street and McPherson Street.

76. On the north side of College Street between Division Street and McPherson Street.

77. On the east side of Division Street from Mamie Eisenhower Avenue to First Street.

78. On the west side of Division Street from the south line of West Second Street south for 140 feet.

79. On Webster Street from the north line of College Street to the south line of West First Street from 3:00 p.m. to 4:00 p.m. on school days only at Garfield Elementary School.

80. On the north side of Garst Avenue from Clinton Street east to the end of Garst Avenue.

81. On the north side of Aldrich Avenue east to Clinton Street to the end of Aldrich Avenue.

82. On the north side of Union Street east of Clinton Street to the end of Union Street.

83. On the south side of Union Street from Tama Street to Benton Street.

84. On Twelfth Street from the east side of Linn Street to a point 28 feet east of Cedar Street.

85. On Southeast Marshall Street from the east line of South Linn Street to the east end of Southeast Marshall.

86. On Crown Flair Drive.

87. On Oakview Road.

88. On Lakewood Drive.

89. On the south side of Fifteenth Street between Story and Boone Streets, upon the north side of Eleventh Street between Story Street and Boone Street, and upon the south side of Sixth Street between Marshall Street and Tama Street.

90. On the east side of Carroll Street, in a thirty-foot space in front of the Boone County Y. (Such area is designated by a yellow line on the curb.)

91. On the east side of Allen Street from Eighth Street to and including the first parking stall north of the Municipal Building.

92. On the south side of Twelfth Street from the west line of Marshall Street west to the east line of the north-south alley, except Saturdays, Sundays and holidays.

93. On the west side of Marshall Street from Eleventh Street to Twelfth Street except Saturdays, Sundays and holidays.

94. On the north side of Seventh Street from Benton Street to Linn Street.

95. On the north side of Fifteenth Street from Story Street to Boone Street.

96. On the north side of Eleventh Street from Story Street to Boone Street.

97. On the north side of Eleventh Street from Linn Street to the alley west of Linn Street.

98. (Repealed by Ord. 2089 – Dec. 06 Supp.)

99. On the north and south sides of Sixteenth Street within fifty feet of the east right-of-way line of Linn Street and on the north side of Sixteenth Street within thirty-five feet of the west right-of-way line of Linn Street. ***(Ord. 1984 – Aug. 03 Supp.)***

100. On the east and west sides of Monona Street beginning at the south right-of-way line on Sixth Street and continuing thirty-six feet south. ***(Ord. 1985 – Aug. 03 Supp.)***

101. On the west side of Harrison Street from Tenth Street to Eleventh Street. ***(Ord. 2088 – Dec. 06 Supp.)***

102. On the south side of Nineteenth Street west of Crawford Street for a distance of one block and on the north side of Nineteenth Street east of Crawford Street for a distance of one block.

103. On the north side of Twentieth Street east of Crawford Street for a distance of one block. ***(Ord. 2165 – May 11 Supp.)***

104. On the south side of Twelfth Street from the alleyway located between Boone and Greene Street and then west to the driveway from 7:30 a.m. to 4:30 p.m., except Saturdays, Sundays and holidays. ***(Ord. 2197 – Dec. 14 Supp.)***

69.09 NIGHT PARKING PROHIBITED. No person shall park or leave standing a vehicle on any of the following named streets between the hours of two o'clock (2:00) a.m. and five o'clock (5:00) a.m. of any day.

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

1. Story Street, on both sides from Fourth Street to Eleventh Street.
2. Tenth Street, on both sides from Marshall Street to Greene Street.
3. Ninth Street, on both sides from Allen Street to Greene Street.
4. Eighth Street, on both sides from Tama Street to Greene Street.
5. Seventh Street, on both sides from Marshall Street to Boone Street.
6. Sixth Street, on both sides from Marshall Street to Boone Street.

7. Allen Street, on both sides from Seventh Street to Ninth Street.

8. Keeler Street, on both sides from Seventh Street to Ninth Street.

9. Arden Street, on both sides from Seventh Street to Ninth Street.

10. Runyan Street, on both sides from Seventh Street to Eighth Street.

11. West Third Street (a.k.a. West Mamie Eisenhower Avenue), on both sides from Marion Street to Main Street.

12. Marshall Street, on both sides from Sixth Street to Seventh Street.

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

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

1. Vehicles for Hire. It is unlawful to leave any vehicle for hire parked or standing on any street, alley or public ground, except for the purpose of loading or unloading, and then only so long as is necessary for such purpose, but not to exceed the parking limit on the street as provided by ordinance. All vehicles for hire, not in actual use, carrying, loading or unloading passengers or freight shall stand on private property. This does not apply to vehicles occupying established taxicab stands.

2. Oversize Vehicles or Conveyances. It is unlawful to leave parked or standing on any street or alley in the City any motor vehicle, trailer, motor home, bus, boat and trailer or other conveyance over twenty-five (25) feet in length for a period in excess of one hour. School and church buses parked at and during church or school activities are exempt from the provisions of this section.

3. Trucks Prohibited. It is unlawful for any truck more than sixteen (16) feet in length to be parked upon any portion of the following locations, except only with reasonably necessary for the prompt loading or discharging of freight or merchandise at the premises abutting upon said street or portion thereof. In so doing, the operator of any such truck shall not unduly obstruct the traffic upon said street. The loading and unloading of such trucks shall be done in the alleys adjacent where it is feasible or possible to do so. The prohibited streets are as follows:

A. Story Street from Sixth Street to Eleventh Street;

B. Allen Street from Seventh Street to Ninth Street;

C. Keeler Street form Seventh Street to Ninth Street;

D. Seventh Street from Allen Street to Keeler Street;

E. Eighth Street from Runyon Street to Greene Street;

F. Arden Street.

69.11 PARKING LIMITED TO FIFTEEN MINUTES.

1. It is unlawful to park any vehicle for a longer period than fifteen (15) minutes during secular days between the hours of eight o'clock (8:00) a.m. and nine o'clock (9:00) p.m. upon the following designated streets:

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

A. Greene Street, on the east side for a distance of 66 feet north of Seventh Street.

B. Seventh Street, on the north side from Greene Street to the alley immediately east thereof.

C. (Repealed by Ord. 2090 – Dec. 06 Supp.)

D. Seventh Street, on the south side from Crawford Street to a point 90 feet east of the centerline of Crawford Street.

2. It is unlawful to park any vehicle for a longer period than fifteen (15) minutes upon the following designated streets:

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

A. Tama Street, on the west side in the first two stalls south of Eighth Street.

3. It is unlawful to park any vehicle for a longer period than fifteen (15) minutes between the hours of 8:00 a.m. and 5:00 p.m. upon the following designated streets:

A. East side of Allen Street from the north edge of Eighth Street to the south edge of the handicapped space.

(Ord. 2090 – Dec. 06 Supp.)

69.12 PARKING LIMITED TO TWO HOURS.

1. It is unlawful to park any vehicle for a longer period than two (2) hours on Monday through Saturday upon the following designated streets:

A. Carroll Street, on the east side from Sixth Street to Seventh Street.

B. Sixth Street, on the north side from the alley between Greene Street and Carroll Street to Carroll Street.

C. Carroll Street, on the west side from Sixth Street to Seventh Street.

D. Greene Street, on the west side from Sixth Street to Seventh Street.

2. It is unlawful to park any vehicle for a longer period than two (2) hours between the hours of eight o'clock (8:00) a.m. and five o'clock (5:00) p.m. upon the following designated streets:

A. Carroll Street, on both sides from Seventh Street to Eighth Street, except on Sundays and the two special parking stalls on the west side of the street.

3. It is unlawful to park any vehicle for a longer period than two (2) hours between the hours of nine o'clock (9:00) a.m. and five o'clock (5:00) p.m., Monday through Friday, upon the following designated streets:

A. Seventh Street, on the north side from Greene Street to Carroll Street.

4. It is unlawful to park any vehicle for a longer period than two (2) hours between the hours of nine o'clock (9:00) a.m. and five o'clock (5:00) p.m., Monday through Saturday, upon the following designated streets:

A. Story Street, on the east side from one-half block south of Sixth Street to Eleventh Street.

B. Story Street, on the west side from Sixth Street to Twelfth Street.

C. Allen Street, on the east side from Seventh Street to Eighth Street and from the north line of the parking stall immediately north of the Municipal Building to Ninth Street.

D. Allen Street, on the west side from Seventh Street to Ninth Street.

E. Keeler Street, on both sides, from Seventh Street to Ninth Street.

F. Arden Street, on both sides from Seventh Street to Ninth Street.

G. Sixth Street, on both sides from Story Street to Marshall Street.

H. Seventh Street, on both sides from Boone Street to Marshall Street.

I. Seventh Street, on the south side from Boone Street to Greene Street.

J. Eighth Street, on the north side from Greene Street to Runyon Street. ***(Ord. 2090 – Dec. 06 Supp.)***

K. Eighth Street, on the south side from Greene Street to Runyon Street.

L. Ninth Street, on both sides from Keeler Street to the west line of the north-south alley in Block 74, original town of Boone.

M. Eighth Street, on the south side from the alley west of Tama Street to Tama Street.

5. It is unlawful to park any vehicle for a longer period than two (2) hours upon the following designated streets:

A. Eighth Street, on the north side from Crawford Street to the alley between Crawford Street and Carroll Street.

69.13 PARKING LIMITED TO TWENTY-FOUR HOURS.

1. It is unlawful to park any vehicle for a longer period than twenty-four (24) hours on any City street, alley, public parking lot or other public property without first obtaining written approval from the Police Department, which approval may be granted in the discretion of the Police Chief for not to exceed ten (10) days.

2. It is unlawful for any person to park any automobile, truck or any other motor vehicle upon the following streets for a twenty-four (24) hour period commencing at nine o'clock (9:00) a.m. on Sunday, Monday, Wednesday and Friday, on the north and west sides of the following streets and on Tuesday, Thursday and Saturday on the south and east sides of the following streets:

A. First Street from Tama Street to Corporal Roger Snedden Drive.

B. Park Avenue from South Story Street to a point 50 feet east of the east line of Herman Park Road (Roosevelt Drive) and from the west line of South Marshall Street to South Story Street.

C. Tama Street from Eleventh Street to Twenty-second Street.

D. Greene Street from Ninth Street to Eleventh Street.

E. Second Street from Marshall Street to Monona Street.

F. Garst Avenue from Tama Street to the intersection with Clinton Street.

G. Union Street from Benton Street to the intersection with Clinton Street.

H. Thirteenth Street from Boone Street to Linn Street.
(Ord. 2099 Aug. 07 Supp.)

I. Crawford Street from Sixth Street South.
(Ord. 2098 – Aug. 07 Supp.)

J. First Street from Boone Street to Greene Street and from Brainard Street to Corporal Snedden Drive.

K. Aldrich Avenue from Greene Street to the intersection with Clinton Street.

L. Prairie Street from Greene Street to Marshall Street.

M. Woodland Street from Greene Street to Story Street.

N. Monona Street from Sixth Street to Second Street.

O. Marshall Street from Prairie Avenue to Hancock.
(Ord. 2190 – Dec. 14 Supp.)

P. Fifth Street from Story Street to Marshall Street.

Q. Crawford Street from Eleventh Street to Nineteenth Street and from Twentieth Street to Twenty-second Street.

R. Greene Street from Eleventh Street to Twenty-second Street.

S. Marshall Street from Thirteenth Street to Fifteenth Street.

T. Third Street from Story Street to Brainard Street.

U. Linn Street from Fifteenth Street to Twenty-second Street.

V. Ninth Street from Greene Street to Harrison Street.

W. Benton Street from Aldrich Avenue to 189 feet south of Eighth Street, and from Eleventh to Twelfth Street, except Sundays, when parking will be allowed on both sides of Benton Street from Fifth Street to Sixth Street.***(Ord. 2009 – Aug. 07 Supp.)***

X. Fifth Street from Marshall Street to Delaware Street, except from Linn to Cedar.

Y. Carroll Street from Fourth Street to Ninth Street, except from Sixth Street to Eighth Street.

Z. Boone Street from Fourth Street to Sixth Street.

AA. West Seventh Street from Division Street to Marion Street, except from Jefferson Street to Clay Street, where there shall be no parking on the north side of West Seventh Street.

BB. Meridian Street from Twelfth Street to Thirteenth Street.

CC. Cedar Street from Twelfth Street to Thirteenth Street.

DD. Tenth Street from Division Street to Monona Street.

EE. West Fourth from McPherson Street to Washington Street, except from McPherson Street to Jefferson Street.

FF. Southeast Linn Street on the north side commencing at the east property line of Cap Erbe Wildlife Preserve, west 64 feet.

GG. Fourteenth Street from Marshall Street to Greene Street.

(Ord. 2099 – Aug. 07 Supp.)

HH. Sixth Street from Cedar Street to Delaware Street.

II. Sixth Street from Benton Street to Linn Street.

JJ. Parkway Drive from Park Circle to Crestwood Drive.

KK. Allison Street from the south curb of West Seventh Street to the north curb of West Sixth Street.

LL. Clinton Street from Third Street to Fourth Street.

(Ord. 1989 – Aug. 03 Supp.)

MM. McPherson Street from Eighth Street to Ninth Street.

NN. Fremont Street from Eighth Street to Ninth Street.

OO. Jefferson Street from Eighth Street to Ninth Street.

PP. College Street west of Montana Street.

QQ. Wood Street from Sixth Street to Eighth Street.

(Ord. 2098 – Aug. 07 Supp.)

RR. Eighth Street from Benton Street to Cedar Street.

(Ord. 2158 – May 10 Supp.)

3. It is unlawful for any person to park any automobile, truck or any other motor vehicle upon the following streets for a twenty-four (24) hour period commencing at seven o'clock (7:00) a.m. on Sunday, Monday, Wednesday and Friday, on the north and west sides of the following streets and Tuesday, Thursday and Saturday on the south and east sides of the following streets:

A. Eighth Street from Monona Street to Carroll Street.

B. First Street from Boone Street to Greene Street.

4. It is unlawful for any person to park any automobile, truck, or any other motor vehicle upon the following streets for a twenty-four (24) hour period commencing at six o'clock (6:00) a.m. on Sunday, Monday, Wednesday, and Friday, on the north and west sides of the following streets and Tuesday, Thursday, and Saturday on the south and east sides of the following streets:

A. West Fourth Street from McPherson Street to Jefferson Street.

69.14 PARKING PROHIBITED DURING CERTAIN TIMES. It is unlawful for any person to park any automobile, truck or any other motor vehicle upon the following streets during the time indicated:

1. On the east side of Crawford Street in the 1800 block for a period from eight o'clock (8:00) a.m. to nine o'clock (9:00) a.m., eleven

o'clock (11:00) a.m. to twelve o'clock (12:00) noon, and three o'clock (3:00) p.m. to four o'clock (4:00) p.m. on school days.

2. On Monona Street from Fifth Street to Sixth Street between the hours of eight o'clock (8:00) a.m. and three o'clock (3:00) p.m. Monday through Friday and on the west side of Monona Street from Sixth Street to Seventh Street between the hours of eight o'clock (8:00) a.m. and four o'clock (4:00) p.m., Monday through Friday.

3. On both sides of Crawford Street between Fifth Street and Sixth Street between the hours of eight o'clock (8:00) a.m. and three o'clock (3:00) p.m. Monday through Friday, and on both sides of Crawford Street between Seventh Street and Eighth Street between the hours of eight o'clock (8:00) a.m. and four o'clock (4:00) p.m. Monday through Friday on school days only.

4. On both sides of Fifth Street between Crawford Street and Monona Street between the hours of eight o'clock (8:00) a.m. and four o'clock (4:00) p.m. Monday through Friday on school days only.

5. On Sixth Street from Crawford Street to Monona Street and on the south side of Sixth Street from Monona Street to Harrison Street between the hours of eight o'clock (8:00) a.m. and four o'clock (4:00) p.m. Monday through Friday. ***(Ord. 2089 – Dec. 06 Supp.)***

6. On the south side of Forrest Street from the west line of Greene Street to the east line of Linwood Drive on Sundays only.

7. On the north side of First Street from the alley west to Boone Street from 7:00 a.m. to 3:30 p.m. on days school is in session.
(Ord. 2043 – Jan. 05 Supp.)

8. On the south side of Sixth Street between Carroll Street and Crawford Street between 7:00 a.m. and 4:00 p.m. on school days only unless the vehicle displays a permit as regulated by Section 69.27.
(Ord. 2049 – Jan. 05 Supp.)

9. On the north side of Seventh Street from Crawford Street to Monona Street for more than one hour during normal school hours. This area shall be designated as "Visitor Parking" for signage purposes.
(Ord. 2103 – Aug. 07 Supp.)

69.15 AREA BETWEEN LOT LINE AND CURB LINE.

1. No person shall park a vehicle in the area of the public way lying between the lot line and the curb line unless there is a curb cut for a driveway and doing so will not block a sidewalk or cause a sight problem for street traffic.

2. In the event the property owner wishes to cut the curb and/or pave the area, they will be required to first make application for and be granted a permit for doing so by the building official. As used in this section "pave" shall mean any kind of hard surfacing including, but not limited to, Portland cement concrete and bituminous concrete with the necessary base. The term does not include surfacing with oil, gravel, oil and gravel or chloride.

(Ord. 2036 – Jan. 05 Supp.)

69.16 PARKING LOTS.

1. No person shall park a vehicle in any of the following parking lots between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday for a consecutive period of time longer then indicated:

A. Lot No. 1 at Eighth and Greene Streets – 24 hours;

B. Lots No. 2 at Sixth and Marshall Streets – 24 hours;

C. Lot No. 5 at Ninth and Arden Streets – 24 hours;

D. Lot No. 6 at Eighth and Runyon Streets – 24 hours;

E. Lot No. 7 in the 700 block of Allen Street on the west side of Allen Street – 2 hours;

F. Lot No. 8 in the 700 block of Allen Street on the east side of Allen Street – 4 hours;

G. Lot No. 9 at Ninth and Keeler Streets – 24 hours;

H. Lot No. 10 at Seventh and Keeler Streets – 24 hours;

I. Lot No. 11 in the 800 block of Keeler Street on the east side of Keeler Street – 4 hours;

J. Lot No. 12 at Main Street and Mamie Eisenhower – 24 hours;

K. Lot No. 13 in the 800 block of Allen Street on the west side of Allen Street – 4 hours.

L. Lot No. 14 in the 600 block of Story Street on the east side of Story Street, Level 2 – 4 hours; Level 3 – 1 hour; Levels 5 and 6 – 8 hours, when available. ***(Ord. 1983 – Aug. 03 Supp.)***

2. No person shall park a vehicle in any of the following parking lots, except for rented parking stalls, for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day:

A. Reserved. ***(Ord. 2185 – Apr. 13 Supp.)***

3. Parking stalls may be rented in the following designated lots with the number of designated rentals as shown:

A. Lot No. 1 – 5 spaces;

B. Lots No. 2 – 5 spaces;

C. Lot No. 5 – 4 spaces;

D. Lot No. 6 – 4 spaces;

E. Lot No. 7 – 4 spaces;

F. Lot No. 8 – 2 spaces;

G. Lot No. 9 – 9 spaces;

H. Lot No. 10 – 6 spaces (north section);

I. Lot No. 11 – 2 spaces;

J. Lot No. 12 – 7 spaces;

K. Lot No. 13 – 2 spaces.

L. Lot No. 14 – Level 4 – 17 spaces ($30.00/mo).

The rental fee is twenty dollars ($20.00) per month, unless noted otherwise, with a thirty dollar ($30.00) initial additional fee to cover the cost of signing each space. The sign shall remain the property of the City. All spaces will be covered by a written rental agreement executed for a minimum period of twelve (12) months. All spaces shall be vacated upon notice to the lessee by the City for community events, for snow removal as stated in this chapter, if the vehicle is unlicensed and/or inoperable, or to permit street sweeping of the lot. No adjustment for the said vacation of the space shall be made on the rental amount. All leases are subject to cancellation with thirty (30) days' written notice by the City without cause. A prorating of rent will be made for those who pay for 12 months in advance to date of cancellation without cause, except for the $30.00 sign fee, which will not be refunded.

(Ord. 1983 – Aug. 03 Supp.)

69.17 PARKING PROHIBITED WITHIN SIDEWALK LINE.

1. No person shall park a vehicle within twenty-five (25) feet of the inside line of the sidewalk line crossing the following streets:

A. Fifth Street at its intersection with Monona Street.

B. Monona Street at its intersection with Fifth Street.

2. No person shall park a vehicle within a distance of thirty-five (35) feet back of the sidewalk line of the following streets where they intersect Story Street:

A. Third Street

B. Second Street

C. First Street

D. Union Street

E. Aldrich Avenue

F. Prairie Avenue

G. Woodland Avenue

H. Lincoln Avenue

I. Park Avenue

J. Park Circle

K. Hancock Drive

3. No person shall park a vehicle within fifty (50) feet of the inside line of the sidewalk line running parallel to the following streets:

A. Mamie Eisenhower Avenue and on all streets abutting Mamie Eisenhower Avenue from Brainard Street through and including Ringold Street.

B. Marion Street – on all streets abutting Marion Street from College Street through and including Tenth Street.

C. Eleventh Street – on all streets abutting Eleventh Street between Story Street and Division Street inclusive.

69.18 BUS, TAXI AND PUBLIC LOADING ZONES.

1. All school buses shall load at the following locations:

A. On the north side of Sixth Street between Crawford and Monona Streets. During the hours of eight o'clock (8:00) a.m. to eight-thirty o'clock (8:30) a.m. and three o'clock (3:00) p.m. to three-thirty o'clock (3:30) p.m., the area will be closed to through traffic, except that the residents of the area may have access to their property from the street.

B. On the north side of Union Street from Boone Street east to the alley.

C. On the south side of Sixth Street from Linn Street to Cedar Street.

D. On the east side of Benton Street from Fourteenth Street to Fifteenth Street.

E. On the south side of Twelfth Street from Boone Street, west to the alley.

(Ord. No. 2072 – Jan. 06 Supp.)

2. Restricted Zones. All bus loading zones shall be restricted to buses only and all private vehicles are prohibited from parking in or loading in these zones.

3. Taxi Loading Zones. A taxi loading zone shall be established in all of the areas described in subsection 1 of this section. The zones shall be specifically marked by a sign designating the area as a taxi loading zone. Each zone shall be twenty (20) feet in length and the curb shall be painted in a contrasting color to that used, if any, for designation of the bus loading zones.

4. Public Loading Zones. The following public loading zones are created and shall be clearly signed as such, for the purpose of loading and unloading persons and/or cargo from motor vehicles.

A. First space west of the intersection of Seventh and Arden Streets on the north side of Seventh Street – 15-minute parking.

B. One parking space on the south side of Seventh Street directly east of the persons with disabilities parking space – 30-minute parking.

C. A zone on the south side of First Street from Boone Street east to the alley providing 30-minute parking.

D. A zone on the east side of Boone Street from Union Street north to First Street providing 30-minute parking, from three o'clock (3:00) p.m. to three-thirty o'clock (3:30) p.m. only on school days. Otherwise no parking at other times.

E. Three spaces east of the handicap parking space on the south side of Seventh Street east of the first driveway east of Crawford Street – 30 minute time limit. ***(Ord. 2029 – Sep. 04 Supp.)***

69.19 RESERVED PARKING SPACES. The following parking spaces are reserved:

1. For Boone County Transportation from eight o'clock (8:00) a.m. to six o'clock (6:00) p.m. Monday through Friday:

A. The first two spaces on the east side of Story Street immediately south of the intersection of Eighth Street and Story Street.

B. From Boone Street east thirty (30) feet on the north side of Union Street.

C. The first space east of Story Street on Seventh Street on the south side of Seventh Street.

D. On the east side of Story Street between 80 and 100 feet north of the north line of Eleventh Street.

E. A space on the south side of West Fourth Street commencing 183 feet west of the center line of Division Street and ending 235 feet west of the centerline of Division Street.

(Ord. 2139 – Sep. 09 Supp.)

2. ***(Repealed by Ord. 2090 – Dec. 06 Supp.)***

69.20 MOTORCYCLE AND MOPED PARKING. The following areas are designated as available parking areas for motorcycles and mopeds and shall be appropriately signed and marked:

1. On the northeast corner of Eighth Street and Story Street on Eighth Street.

2. On the northwest corner of Eighth Street and Story Street on Eighth Street.

3. On the southwest corner of Eighth Street and Story Street on Eighth Street.

69.21 SNOW REMOVAL. ***Repealed by Ord. No. 2073 – Jan. 06 Supp.***

69.22 EMERGENCY SNOW PARKING REGULATIONS.

1. Declaration of Snow Emergency. It is unlawful for any vehicle to be parked on or along any public street, avenue, alley or other public place in the City if and when a snow emergency is declared by the Mayor or his/her designee. The snow emergency shall remain in effect until it is declared ended. These regulations shall supersede all other parking regulations and directions, except for snow route regulations contained in Section 69.23. All declarations of snow emergencies shall be made known to the public via all available media including but not limited to the newspaper, radio, and/or television. Other modes of notification may be pre-arranged with the City Clerk or designee and subject to their sole supervision. Subsection 1(F) of 175.28 "Vehicle Parking, Loading and Access Standards" shall be temporarily suspended during a snow emergency to permit parking in the front yards of dwellings not having off street parking areas. The temporary suspension shall start and end at the same times the snow emergency starts and ends.

(Ord. 2141 – Sep. 09 Supp.)

2. Parking On City Lots Prohibited. It is unlawful for any vehicle to be parked on or in any City owned or operated parking lots during the period of such declared emergency as authorized in subsection 1 of this section until such parking lots have been cleared of all ice and snow.

Any vehicle remaining parked in violation of the provisions of this section may be removed as provided in Chapter 70.

3. Business District. No vehicle shall be parked in the business district (as hereinafter defined) between the hours of two o'clock (2:00) a.m. and five o'clock (5:00) a.m. when a snow emergency exists. The business district consists of the following streets:

A. Eleventh Street – Story Street to 1/2 block east

B. Tenth Street – Greene Street to Tama Street

C. Ninth Street – Greene Street to 1/2 block east of Allen Street

D. Eighth Street – Greene Street to Benton Street

E. Seventh Street – Greene Street to Tama Street

F. Sixth Street – Greene Street to Marshall Street

G. Marshall Street – Tenth Street to Eleventh Street

H. Marshall Street – Sixth Street to Seventh Street

I. Story Street – Fourth Street to Twelfth Street

J. Greene Street – Sixth Street to Ninth Street

K. Arden Street – Seventh Street to Ninth Street

L. Keeler Street – Seventh Street to Ninth Street

M. Boone Street – Sixth Street to Seventh Street

N. Allen Street – Seventh Street to Ninth Street

O. Runyon Street – Seventh Street to Eighth Street

P. Tama Street – Seventh Street to Eighth Street

Q. West Mamie Eisenhower Avenue – Marion Street to Main Street

R. West Second Street – Main Street to State Street

S. State Street – West Second Street to 1/2 block north of West Mamie Eisenhower Avenue

T. Main Street – West Mamie Eisenhower Avenue to West Second Street

69.23 SNOW ROUTES.

1. Restrictions. There shall be no parking or standing of vehicles on any street designated as a "snow route" from November 1 to April 15 of each year.

2. Regular Routes Designated. On the following streets or portions of streets designated in this section, it is unlawful, when official signs have been erected giving notice of the designation of a "snow route" to operate a motor vehicle contrary to subsection 1 of this section:

A. Story Street from Highway 30 to Fourth Street and from Twelfth Street to Twenty-second Street.

B. Mamie Eisenhower Avenue from the west corporate limits to the east corporate limits.

C. First Street from Story Street to Corporal Roger Snedden Drive.

D. Corporal Roger Snedden Drive from Highway 30 to Mamie Eisenhower Avenue.

E. Eighth Street from Marion Street to Greene Street.

F. Eleventh Street from Division Street to Story Street and from one-half block east of Story Street to Linn Street.

G. Benton Street from Mamie Eisenhower Avenue through the underpass to Linn Street and Linn Street to Twenty-second Street.

H. Greene Street from Mamie Eisenhower Avenue to Sixth Street and from Ninth Street to Eleventh Street.

I. Marion Street from Mamie Eisenhower Avenue to Eleventh Street.

J. Division Street from Eighteenth Street to Park Street.

K. South Marion Street from Mamie Eisenhower Avenue to West Park Avenue.

L. West Park Avenue from South Marion Street to Story Street.

M. Hancock Drive from Story Street to South Marshall Street.

N. Marshall Street from Mamie Eisenhower Avenue to First Street.

O. South Marshall Street from First Street to Crestwood Drive.

P. Southeast Marshall Street from South Marshall Street to Highway 30.

Q. Eighth Street from Linn Street to east City limits.

R. South Linn Street from Hancock Drive to Highway 30.

3. High Priority Routes Designated. In addition to the regular snow routes, the following shall be designated high priority snow routes which will carry the same restrictions as regular snow routes when two (2) inches or more of snow are received. However, parking will be permitted after the streets have been plowed, the curbs are clear, and the snowfall has terminated:

A. South Marshall Street from Crestwood Drive to S.E. Marshall Street.

B. Hancock Drive from South Linn Street to South Marshall Street.

4. Exceptions. Parking is permitted in the following locations on snow routes:

A. West side of Story Street between the south line of Sixteenth Street and the north line of Thirteenth Street on Sundays all day and Wednesdays from six o'clock (6:00) p.m. to nine o'clock (9:00) p.m.

69.24 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 Fire 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 Fire 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.

69.25 OBJECTIONABLE VEHICLES. It is unlawful for any person to stop, stand or park a vehicle within two hundred (200) feet of any residence, hotel, motel or other place which normally houses people with the propelling or auxiliary (refrigeration unit, air conditioner, etc.) engine running which causes

objectionable or injurious noise or odors for more than two (2) hours between the hours of nine o'clock (9:00) p.m. and six o'clock (6:00) a.m.

69.26 PRIVATE PARKING LOTS.

1. Definition. As used in this section, "private parking lot" means any privately owned parking lot providing either free parking or paid parking during business hours or after business hours, adjacent to any store, office building, commercial building, church or industrial building for the convenience of employees and customers or patrons or stand alone business parking lots.

2. Trespassing; After Hours. No person shall enter or stay on any private parking lot at any time that staying or entering the lot is prohibited by the owner, as shown by a sign at the parking lot. No person shall place or leave any vehicle on any private parking lot at any time prohibited or after business hours. Anyone doing so shall be guilty of trespassing.

3. Signs. The prohibition set out in subsection 2 shall be in effect at any private parking lot where the owner or person lawfully in charge has posted a sign or signs clearly stating the prohibition. Signs must be placed so that they can be seen either at all entrances to the lot or at prominent locations.

4. Exceptions; Special Events. Temporary entrance to a private parking lot in an emergency or to avoid an accident is not a violation of this section. In addition, the owner or person in charge of any parking lot may grant temporary permission to use the lot during any specific hours when parking or trespassing is normally prohibited. The owner or person in charge shall notify the public of any such temporary permission by clearly posting a sign indicating the temporary permission to park.

5. Enforcement. The owner or person in charge of the parking lot may have any violators charged with trespass by having the violator's vehicle ticketed only by the Police Department, or ticketed and also impounded by a towing service. If impounded, said violator shall pay the impoundment fee and any storage charges in addition to any fine that is assessed if found guilty of trespass. The lot owner or towing service shall notify the registered owner of the vehicle of the impoundment, unless the owner contacts the lot owner or towing service first. If the violator does not pay the impoundment fee within seven (7) days unless otherwise ordered, and notice by certified mail or otherwise is sent or given to the registered owner, the vehicle will be disposed of as an abandoned vehicle, pursuant to statutes of the City or the State. Any

violator found guilty of a violation of this section is guilty of a simple misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2115 – Feb. 08 Supp.)

69.27 PERMIT PARKING. The City may issue permits to park in areas that are otherwise restricted upon application to the City Council. All permit applications must be submitted to the Public Safety Committee or its designee for approval or denial. The City reserves the right to deny any application. The City may charge a fee for the issuance of said permit as set by resolution. Any violation of the restrictions associated with a permit will result in revocation of said permit by the City Council. All permits, evidenced by a window sticker or placard, must be displayed in the location designated on the vehicle. If not properly displayed, a parking ticket will be issued. ***(Ord. 1998 – Aug. 03 Supp.)***

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Snow Route, Alternate, Illegal and Overtime
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 and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: SNOW ROUTE, ALTERNATE, ILLEGAL AND OVERTIME.

1. Snow Route and Illegal Parking Violations. Uncontested violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable to the City Clerk. The simple notice of a fine shall be in the amount of ten dollars ($10.00) for all violations except overtime parking violations, snow route parking violations and improper use of a person with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased to fifteen dollars ($15.00). The simple notice of a fine for snow route parking violations is twenty-five dollars ($25.00), and the simple notice of a fine for improper use of a person with disabilities parking permit is one hundred dollars ($100.00). Contested violations shall be charged and proceed before a court the same as other traffic violations. Filing fees and court costs shall be assessed as provided in §602.8106(1) and §805.6(1)(a), Code of Iowa, except no costs shall be assessed for

contested violations of improper use of a person with disabilities parking permit.

2. Overtime Parking Violations. Uncontested violations of overtime parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable to the City Clerk. The simple notice of a fine shall be in the amount of ten dollars ($10.00) for such violations. If such fine is not paid within thirty (30) days, it shall be increased to fifteen dollars ($15.00). Contested violations shall be charged and proceed before a court the same as other traffic violations. Filing fees and court costs shall be assessed as provided in §602.8106(1) and §805.6(1)(a), Code of Iowa.

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

(Ord. 2155 – May 10 Supp.)

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

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

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

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

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

6. Non-payment of Fines. A peace officer may impound any vehicle owned by anyone who has not paid $250 or more in overdue parking fines. All fines, costs of towing and impoundment shall be first paid by the owner before the vehicle can be released back to the owner.

(Ord. 2176 – May 12 Supp.)

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Places of Operation
75.05 Hours of Operation
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. Off-road motorcycles and off-road utility vehicles shall also be considered all-terrain vehicles for the purpose of titling and registration. An operator of an off-road motorcycle or off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles, but exempt from the safety instruction and certification program requirements of Sections 321I.25 and 321I.26 of the Code of Iowa. ***(Ord. 2124 – Feb. 08 Supp.)***

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

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

(Code of Iowa, Sec. 321G.1 [18])

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

(Ord. 2033 – Sep. 04 Supp.)

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

1. Streets. ATVs shall not be operated on any roadway, street or public right-of-way except as provided in Section 321.234A, Code of Iowa, and this section, except in conjunction with its use for agricultural purposes at that time.

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, only for travel to and from snowmobile areas.

(Code of Iowa, Sec. 321G.9[4a] and 321I.10[1,3])

2. Exceptions. ATVs and snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. ATVs and snowmobiles may be operated on any street in conjunction with providing emergency or rescue services during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

B. Direct Crossing. ATVs and snowmobiles may make a direct crossing of a prohibited street provided:

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

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

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

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

(Code of Iowa, Sec. 321G.9[2] and 321I.10)

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

(Code of Iowa, Sec. 321G.13[8] and 321I.14[1][h])

4. Trails. ATVs shall not be operated on snowmobile trails except where designated by the controlling authority and the primary snowmobile trail sponsor and snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4][g] and 321I.10)

5. Parks and Other City Land. ATVs and snowmobiles shall not be operated in any park, playground or upon any other City-owned property except on designated trails. A snowmobile shall not be operated within the City without a snow cover of at least one-half inch.

6. Sidewalk or Parking. ATVs and snowmobiles shall not be operated upon a public sidewalk or that portion of a 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 or a designated trail. ***(Ord. 2033 – Sep. 04 Supp.)***

75.05 HOURS OF OPERATION. No ATV or snowmobile shall be operated in the City between the hours of eleven o'clock (11:00) p.m. and seven o'clock (7:00) a.m. closer than 100 feet to any dwelling or building which is usually occupied by one or more persons, except when traveling along a public right-of-way directly to one's residence or storage facility.

(Ord. 2033 – Sep. 04 Supp.)

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)

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 within seventy-two (72) hours, in accordance with State law. ***(Ord. 2033 – Sep. 04 Supp.)***

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

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Regulations for Operation on Public Streets
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
76.15 Obedience to Traffic Signals and Rules
76.16 Operation of Official Police Bicycles

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. An adult operating or riding a bicycle may carry a small child as a passenger in or on a seat or carrier which must provide adequate safeguards to prevent contact with wheel spokes, chain or other moving parts of the bicycle and must be attached to the bicycle in a manner which will not obscure vision of the operator or cover the headlights or rear reflector.

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

76.04 REGULATIONS FOR OPERATION ON PUBLIC STREETS.

1. Two Abreast Limit. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast. 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])

2. Operation on Public Roadways. No person shall operate a skateboard, skates (including roller blades or other types of in-line skates) or a scooter on a public street if there is a sidewalk adjacent to such street, except as prohibited in 76.09 (1). If no sidewalk exists, they may be operated on the street, provided it is done as far to the right side of the road as possible and in the same direction of traffic.

(Ord. 2002 – Aug. 03 Supp.)

3. Operation of Skateboards Limited to Daylight Hours. No person shall operate a skateboard, skates (including roller blades or other types of in-line skates) or scooters on a public street after one-half hour after sunset or one-half hour or more before sunrise. This provision is designed to prohibit operation in the dark.

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. It is unlawful for any person to operate a bicycle, skates (including roller blades or in-line skates), scooter or skateboard upon the sidewalks in the business district of the City at any time or on the sidewalks contiguous to any land on which a school is situated on days school is in session, from 7:45 a.m. to 4:00 p.m. "Business District" is defined for the purposes of this section as an area

bounded on the north by Eleventh Street, on the west by Greene Street, on the south by Fifth Street and on the east by Tama Street. This excludes any sidewalk in any one-block area that is contiguous to eighty percent residential housing. See Section 62.03 regarding special rules pertaining to motorized vehicles on sidewalks. ***(Ord. 2002 – Aug. 03 Supp.)***

(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. Pedestrians upon sidewalks shall have the right-of-way at all times over persons operating bicycles, skates (including roller blades or in-line skates), scooters or skateboards upon any sidewalks not prohibited in this chapter and any bicycles, skates (including roller blades or in-line skates), scooters or skateboards operated or driven upon any sidewalk shall turn off the sidewalk at all times when meeting or passing pedestrians.

76.10 TOWING. It is unlawful for any person riding a bicycle, skates (including roller blades or in-line skates), scooters or skateboards to be towed by another vehicle operating upon the streets of the City except that a bicycle may tow a trailer manufactured for such purpose and carry a red reflector to the rear.

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. In the business district of the City, it is unlawful to park any bicycle upon sidewalks or in any prohibited area as designated by the Police Department of the City. Said bicycles shall be parked in the parking racks provided for that purpose or at such other places as may be from time to time provided for that purpose.

(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.

76.15 OBEDIENCE TO TRAFFIC SIGNALS AND RULES. All persons operating bicycles, skates (including roller blades or in-line skates), scooters or skateboards upon any street or sidewalk within the City shall observe all traffic rules as to traffic lights and highway stop signs, shall signal any change of direction or course of travel in the same manner and the same way as such signals are required under the law governing the use of automobiles upon streets and highways, and shall at all times give automobiles the right-of-way.

76.16 OPERATION OF OFFICIAL POLICE BICYCLES. The provisions of this chapter do not pertain to an on-duty police officer acting in his or her official capacity when assigned to duties with the Police Department's Bicycle Patrol Unit, except as otherwise provided herein. Said exclusion does not relieve the officer from his or her responsibility to operate his or her bicycle in a safe manner and provides that such operation by the officer does not constitute a willful or wanton disregard for the safety of persons and/or property.

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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 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

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

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

1. "Abandoned vehicle" means any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H, Code of Iowa, whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

(Ord. 2075 – June 06 Supp.)

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. 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. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this section, if the private entity provides notice as required by Section 80.03 to those persons whose names were provided by the police authority. ***(Ord. 2075 – June 06 Supp.)***

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. 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.

(Ord. 2075 – June 06 Supp.)

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

(Ord. 2075 – June 06 Supp.)

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released. ***(Ord. 2075 – June 06 Supp.)***

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

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

(Ord. 2075 – June 06 Supp.)

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate within thirty days of purchase and shall surrender the certificate of authority in lieu of the certificate of title. ***(Ord. 2075 – June 06 Supp.)***

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs, the police authority shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally. If a private entity has been hired, the police authority shall file a claim with the Department of Transportation for reimbursement of towing fees which shall be paid from the road use tax fund. ***(Ord. 2075 – June 06 Supp.)***

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

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

(Ord. 2075 – June 06 Supp.)

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

CHAPTER 81

TRAINS

81.01 Stopping at Crossing Required
81.02 Speed
81.03 Whistling Prohibited; Exception
81.04 Crossing Maintenance
81.05 Blocking of Crossing Prohibited
81.06 Construction and Maintenance of Gates and Alarms

81.01 STOPPING AT CROSSING REQUIRED. Whenever any person driving a vehicle approaches a railroad grade crossing and warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a train, the driver of such vehicle shall stop within fifty (50) feet but not less than ten (10) feet from the nearest track of such railroad and shall not proceed until said person can do so safely. The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train.

81.02 SPEED. No railroad company shall run or permit to run, within the limits of the City, any train, locomotive or car at a greater rate of speed than that which is reasonable and proper under the conditions then and there existing.

81.03 WHISTLING PROHIBITED; EXCEPTION. It is unlawful for any railroad company to cause or allow the whistle of any locomotive engine to be sounded within the limits of the City except for the purpose of making such signals as are absolutely required for the safe operation of trains and then only when the requisite signals cannot be given by any other means.

81.04 CROSSINGS MAINTENANCE. All railroad companies owning or operating any railway or sidetracks within the City limits shall construct, maintain and keep in good repair good and sufficient crossings for vehicles and pedestrians at all points where any street or highway crosses any of such tracks of the railroad company. It is unlawful for any such railroad company to make flying switches over and across any such crossing.

81.05 BLOCKING OF CROSSING PROHIBITED.

1. A railroad corporation or its employees 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:

   A. When necessary to comply with signals affecting the safety of the movement of trains;

B. When necessary to avoid striking any object or person on the track;

C. When the train is disabled;

D. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

2. Any officer or employee of a railroad corporation violating any provision of this section shall, upon conviction, be subject to the penalty provided in Section 1.14 of this Code of Ordinances. An employee shall not be guilty of such violation if the action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt shall then be with the railroad corporation.

3. Whenever Greene Street or Story Street in the City is blocked by any railroad company's train, locomotive or car and it is necessary for the fire equipment to pass in order to respond to a fire alarm given, any such railroad company shall immediately, upon orders from the Fire Chief or assistant, cause said train, locomotive or car to be removed, or the train broken so that the fire equipment may pass.

81.06 CONSTRUCTION AND MAINTENANCE OF GATES AND ALARMS. It is the duty of all railroad companies owning or operating railroads within the City limits to erect, maintain and operate, whenever lawfully required so to do, suitable gates, flagmen, bells or other warning device upon all public streets or highways crossing said railroad which crossing the Council deems dangerous and in need of protection.

CHAPTER 82

GOLF CART OPERATION

82.01 Golf Cart Operation Permitted
82.02 Requirements of Operation
82.03 Prohibited Street and Areas of Operation
82.04 Fine and Enforcement

82.01 GOLF CART OPERATION PERMITTED. Golf carts shall be allowed to be operated on City streets for the purposes of traveling to and from the operator's domicile to the golf course and back to their domicile. Operating a golf cart on a street for any other purpose shall be in violation of this chapter.

82.02 REQUIREMENTS OF OPERATION. Any person operating a golf cart shall comply with the following restrictions during operation:

1. The operator shall obey all state and local traffic laws and ordinances.

2. All golf carts shall be equipped with an orange flag and slow moving vehicle placard affixed to the rear of the cart as provided by state law.

3. All operators must be at least sixteen (16) years of age and possess a valid driver's license.

4. The owner shall carry the necessary liability insurance as required by state law and be able to produce proof of insurance when required.

5. Golf carts shall be operated only between sunrise and sunset each day.

6. Golf carts may only be operated on City streets from March 1st to November 30th of each year.

82.03 PROHIBITED STREETS AND AREAS OF OPERATION. Operation of golf carts shall be prohibited on the following streets, thoroughfares, and in the following areas:

1. Mamie Eisenhower Avenue, also referred to as Fourth Street, anywhere within the corporate limits of the City.

2. Story Street within the corporate limits of the City.

3. South Marshall Street from Hancock Drive to Southeast Linn Street.

4. Hawkeye Drive from South Marshall Street to Story Street.

5. An area bounded by Greene Street on the west and Benton Street on the east and Mamie Eisenhower on the south and Eleventh Street on the north (business district).

6. Industrial Park Road from Linn Street east to the corporate City limits.

7. Corporal Roger Snedden Drive from Highway 30 north to Mamie Eisenhower Avenue.

8. Highway 30 within the corporate City limits. This will also prohibit the crossing of Highway 30.

9. No golf cart may be operated on City property, other than a street, without the expressed consent of the Council.

A golf cart operator may, however, cross Story Street or Mamie Eisenhower Avenue if said streets dissect two adjoining areas where a golf cart if allowed to be operated. Permission may be sought from the Council for operation in any restricted area for special events.

82.04 FINE AND ENFORCEMENT. Any violation of this chapter shall constitute a simple misdemeanor and be punishable by a fine of $50.00 per violation. All violations of this chapter shall be levied against the operator of the golf cart, unless unknown, in which case the owner shall receive the citation. All other citations for violations of any traffic regulations, either state of city, will be issued against the operator.

(Ch. 82 - Ord. 2081 – June 06 Supp.)

CHAPTER 83

ASSISTIVE DEVICES

83.01 Definitions
83.02 Rules of Operation
83.03 Required Safety Equipment
83.04 Penalties for Violations

83.01 DEFINITIONS. The following definitions are hereby adopted for use in conjunction with this chapter:

1. Assistive Device. This shall include any device designed to assist a person with disabilities to transport themselves by means of either a non-motorized or motorized device having three or more wheels, excluding motorcycles, cars, trucks, riding lawnmowers, or motorized scooters.

2. Public Right-of-Way. This includes all public streets, sidewalks, or alleys.

3. Rules of the Road. They shall include all rules of operation pertaining to all vehicles that are operated on streets and roadways within the state.

83.02 RULES OF OPERATION. All assistive devices shall obey the following rules when operated on any public right-of-way:

1. The operator shall yield at all times to pedestrians and human powered devices.

2. The operator shall observe the "Rules of the Road" as set forth in Chapter 321, Code of Iowa.

3. The operator shall have the proper safety equipment attached to the device if operated at night.

83.03 REQUIRED SAFETY EQUIPMENT. All assistive devices shall be equipped with the following safety equipment:

1. All assistive devices must have affixed to the rear of the device at least two light reflectors and a slow moving vehicle indicator or sign.

2. If operated after dusk or before dawn, the assistive device must be equipped with a head light visible from the front of the device for at least 50 feet and a flashing red light affixed to the rear of the device visible at least 50 feet to the rear.

83.04 PENALTIES FOR VIOLATIONS. Any violation shall constitute a simple misdemeanor and be punishable by a fine plus court costs and a surcharge as set by the State of Iowa.

(Ch. 83 - Ord. 2152 – May 10 Supp.)

[The next page is 505]

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 Compliance with Plumbing Code
90.07 Plumber Required
90.08 Tapping Mains
90.09 Water Service Pipe Material
90.10 Responsibility for Water Service Pipe and Stop Box
90.11 Failure to Maintain
90.12 Curb Valve
90.13 Interior Valve
90.14 Inspection and Approval
90.15 Completion by the City
90.16 Shutting off Water Supply
90.17 Operation of Curb Valve
90.18 Fire Hydrants
90.19 Water Service Outside City Limits
90.20 City Not Liable for Damages
90.21 Service Connections – Work Assignments
90.22 Disconnection and Abandonment of Service Pipes
90.23 Suspension of Water Usage for Lawn and Garden Sprinkling and Other Uses
90.24 Water Districts

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 Director of Public Works or their designee. ***(Ord. 2172 – May 11 Supp.)***

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.

7. "Water District" means an area organized by an independent organization for the purpose of water distribution and/or water storage in a defined area outside the City limits.

8. "Water loss" means any amount of water unaccounted for determined by taking the difference between all individual meter reads in the water district and the overall master meter reading.

9. "Master meter" means the meter installed at the juncture between where the public water system terminates and where the water district system begins.

(Ord. 2172 – May 11 Supp.)

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 Building Official. Work under any permit must be initiated within sixty (60) days and completed within one year after the permit is issued. The permit may be revoked at any time for any violation of these chapters.

90.06 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 Chapter 6 of the *Uniform Plumbing Code*.

(Ord. 2010 – Apr. 04 Supp.)

90.07 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber licensed by the City. A plumber's license may be suspended for violation of any of the provisions of this chapter. See Chapter 126 "Plumber Licenses" for more information. ***(Ord. 2044 – Jan. 05 Supp.)***

90.08 TAPPING MAINS. All taps into water mains shall be made 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. Exception. The Building Official may approve, on application, the installation of a single service line into a structure when the property owner agrees to installing separate meters and locking valves for each separate service line installed to each separate residence, apartment or occupied area located in the same building. The location of the meters and locking valves and the method of installation shall be governed strictly by the Building Official. Any deviation from the above requirement must be made by special permission of the Building Official.

3. Sizes and Location of Taps. A four inch main shall receive no larger than a five-eighths (5/8) inch tap. A six inch main shall receive no larger than a three-fourths (3/4) inch tap. All mains 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 at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than one (1) foot of the joint in the main.

4. 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.

5. 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.

6. Locating Mains. The City is only responsible to locate City water mains. The City will not guarantee the accuracy of the locate.

7. The water department may at any time test any service pipe now or hereafter laid, and if it fails to hold a water or air pressure of one hundred fifty pounds to the square inch, such service pipe shall be condemned. ***(Ord. 2010 – Apr. 04 Supp.)***

8. Live Taps Required. All taps into water mains shall be on live mains only and under pressure, except in new subdivisions on new water lines where non-live taps are permitted. ***(Ord. 2052 – Sep. 05 Supp.)***

90.09 WATER SERVICE PIPE MATERIAL. Water service pipes from the main to the meter setting shall be of such material as specified in the Plumbing Code. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.10 RESPONSIBILITY FOR WATER SERVICE PIPE AND STOP BOX. 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.

The stop box used shall be of a design approved by the building official or his designee and must have an unobstructed opening at least two inches in diameter and fitted with a substantial cover on which shall be marked the word "Water" in raised letters. The outside shutoff and stop box shall be under the sole control of the water department and no one except an employee or person specially authorized by the water department shall open the cover of such box, or turn on or off water. However, licensed plumbers may turn off or on water for testing plumbing or making repairs, but whenever so used, the shutoff must be left closed if found closed, and open if found open, by the plumber who used it.

The stop box on every service must be kept flush with the surrounding ground or sidewalk surface and must be visible from the sidewalk. The curb box and shutoff must be kept in good condition and ready for use at all times by the owner. Should the owner neglect to maintain such box and shutoff in proper condition to be used, and if stop box is found to be filled up or the stop box or shutoff found to be out of repair at any time, the water department shall have the right to clean or repair the same when needed upon giving twenty days notice by certified mail to the owner or owners of the property and charge the cost thereof to the owner and if payment is not made within fifteen days of the receipt of the bill or such repair or other satisfactory arrangements for payment are not made within fifteen days, may turn off the water service until the same is paid.

In case of an emergency, such as a water break or broken waterline, the repairs may be made immediately without prior notice to the property owner. The costs therefore shall be the actual costs of labor and material, plus ten percent for overhead expenses and collected as provided in this section.

Any consumer who knowingly allows any portion of their water service pipe to become out of repair and develops a leak or who fails to repair any such leaks within twenty-four hours after being notified by the building official will be

charged for all water wasted as though it had passed through the consumer's meter.

(Ord. 2044 – Jan. 05 Supp.)

90.11 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])

90.12 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.

90.13 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.

90.14 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.

90.15 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 Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.16 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.

90.17 OPERATION OF CURB VALVE. It is unlawful for any person except the Superintendent or a plumber to turn water on at the curb valve, and said plumber shall take no action contrary to the orders of the Superintendent and shall leave the water off or on, as directed by the Superintendent.

90.18 FIRE HYDRANTS.

1. No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

2. The City will be responsible for the testing of all private hydrants. If any are found to be inoperable or operating at less than full capacity, the owner(s) shall be notified in writing by either the Boone Fire Department or the Boone Building Official that a hydrant is in need of repair or maintenance by certified mail. The party responsible for the repair or maintenance of said fire hydrant shall perform any repairs or maintenance within fifteen (15) days of receiving notice of any required repair or maintenance or the City will perform the necessary repair or maintenance and bill the costs to the owner as part of the next water bill. Once the repair or maintenance is completed, the City office notifying the owner of the problem is to receive notice that the repair or maintenance has been completed and a new test performed.

(Ord. 2016 – Apr. 04 Supp.)

3. No person except firemen in case of emergency shall attempt to open any fire hydrant with a wench other than the special hydrant wrench designed to fit the spindle nut. However, when it is necessary to open or close hydrants for the purpose of making plumbing repairs to private services, the master plumber doing the work shall contact the building official and arrange for a city employee to operate the hydrant.

(Ord. 2044 – Jan. 05 Supp.)

90.19 WATER SERVICE OUTSIDE CITY LIMITS.

1. Fee. Any person outside the City limits desiring to receive City water service shall pay to the Water Department a one-time service charge of one thousand dollars ($1,000.00) for each building or property which is to receive the service.

2. Application. The person desiring water service outside the City limits shall:

A. Make application for service to the Water Department by describing in writing the location and number of buildings or properties to receive service and describing the intended use (that is: residential, commercial, agricultural or other); and

B. Pay the required fee for the number of services requested.

3. Application Approval. Upon receipt of the application and fees, the Water Department shall deliver a copy of the application to the Council. The application shall be reviewed by the Council. If the Council approves, a permit shall be issued. If the Council does not approve, the application fee shall be refunded.

4. Connection Costs. The service fee for water service outside the City limits is solely for the privilege of obtaining service. It does not oblige the City to act to extend any lines or provide any construction or other aid to the applicant regarding connection to the City service. All such expense is solely the responsibility of the applicant.

5. Compliance. The applicant for water service outside the City limits must abide by all other City ordinances regarding water connections and use.

90.20 CITY NOT LIABLE FOR DAMAGES. It is expressly stipulated that no claim shall be made against the City by reason of breaking of any service cock, or if from any cause the supply of water should fail, or from damage arising from shutting off the water to repair mains, make connections or extensions, or for any other purpose that may be deemed necessary. The right is reserved to cut off the supply of water at any time, notwithstanding any permit granted to the contrary.

90.21 SERVICE CONNECTIONS – WORK ASSIGNMENTS. The laying of all service connections and pipes and the setting of water service fixtures in streets, public grounds and in premises to be served by City water shall be made by employees of the water department or by duly licensed plumbers.

(Ord. 2044 – Jan. 05 Supp.)

90.22 DISCONNECTION AND ABANDONMENT OF SERVICE PIPES. All service pipes that become useless because of laying of larger or other new services or because water will no longer be used through them, must be permanently closed off at the water main at the expense of the owner of the premises, and so reported to the building official. No plumber or owner of property shall disconnect or remove water supply fixtures or piping from any premises served by City water or alter the same in such way so as to make the service connection unnecessary for the premises without permanently closing

off the connection at the water main and reporting the same to the building official. If a service pipe or connection which is not being used is found to be leaking, the water department may without notice repair or turn off the same and charge the expense thereof to the owner of property for which the connection was made.

(Ord. 2044 – Jan. 05 Supp.)

90.23 SUSPENSION OF WATER USAGE FOR LAWN AND GARDEN SPRINKLING AND OTHER USES. The City reserves the right to suspend the use of hoses and sprinkling systems for lawns, gardens and other uses whenever in the opinion of the building official or state official that there exits a critical water shortage.

(Ord. 2044 – Jan. 05 Supp.)

90.24 WATER DISTRICTS. Water districts shall be established and governed according to the following:

1. The water district shall be established and abide by all federal, state and city statutory regulations. The district will be responsible for the system flushing, testing, and hiring of a licensed operator as well as all other applicable guidelines for water districts as set forth in Chapter 357, Code of Iowa.

2. The water district shall abide by all standards of installation of water mains and service lines per Boone City Code.

3. The water district will establish a connection to the City water system by installing a master meter at the district's expense. The connection point shall be located as close to corporate limits as practical. The district shall pay all applicable tap fees. Individual meters will be installed at customer/user expense. In the event the master meter needs to be replaced, it shall be at the City's expense.

4. The water district shall appoint a representative to be responsible for all payments associated with monthly master meter billing. This includes any water loss within the district. As changes of representatives occur, the water district shall provide the City with up-to-date and current lists of water district board members and representatives along with their contact information to include name, address, phone number, and email address.

5. The water district shall execute an agreement which shall be approved by the City Council for any new water district service connections. Existing districts shall become compliant by July 1, 2011 by meeting the requirements of these provisions and the signing of said agreement, except they will not be required to meet the current standards

for installation of water mains and service lines. All existing water mains and lines will be grandfathered in.

6. The water district shall choose one of the following two options concerning the reading of meters and billing responsibilities:

A. Water will be supplied from a single and/or secondary metered connection point(s). The City reserves the right to grant secondary loop access to the system. Master meters will be read on a monthly basis and bill the district accordingly. Master meter rates shall apply in all cases.

OR

B. Water will be supplied from a single and/or secondary metered connection point(s). The City reserves the right to grant secondary loop access to the system. The City will read the master meter and all individual metered service connections having a City approved residential meter. The City will read individual meters monthly along with the master meter. Monthly billing may vary depending on staff availability which may shorten or lengthen meter reading cycles. Any water loss over $50 within the system will be billed to the district. The district shall pay to the City a monthly $12 administration fee for each account billed.

In addition, each individual property owner located within a district that abuts or is connected to the City limits of Boone, Iowa will be required to sign a consent-to-voluntary annexation form, including any areas within the district eligible to request a new tap to the district. This agreement will be recorded and made a part of the land record associated with each property served within the district. The agreement shall be recorded prior to acceptance and approval by the City Council.

(Ord. 2172 – May 11 Supp.)

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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 and Maintenance
91.08 Right of Entry
91.09 Meter Testing
91.10 Separate Water Meter
91.11 Exterior Remote Reading Equipment
91.12 Temporary Water Service
91.13 Connections – Separate Meters or Service Required for Separate Consumers
91.14 Meter Reading Procedure - Inaccessibility

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 and in accordance with the Plumbing Code. 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. Care must be taken not to cover a meter with wood or other material or to preclude access by fencing or enclosing the yard area where the remote meter is located unless full, safe access is provided. If a remote meter should be inaccessible or covered, the water department will relocate said remote reader. If the remote meter is not allowed to be relocated within the time fixed by the water department, the City will terminate water service to that location until the remote reader is allowed to be relocated. If a meter is inaccessible, and the water department needs access and cannot obtain access, appropriate action will be taken to gain access. If access is denied, water service will be terminated until access is obtained. The location of any water meter owned by the City shall in no case be changed without permission being obtained from the water department, and in no case shall water be used without a meter except as otherwise provided. ***(Ord. 2045 – Jan. 05 Supp.)***

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. In case two or more meters are desired for measuring water consumption, they shall be placed so as to measure water independently. No meter shall measure water that has passed through another meter. There shall be a compression stop and waste cock of Mueller or Glauber pattern or equal attached to every service at the point where it enters the building, inside the same, so as to admit the water being shut off in severe weather and the pipe and meter drained. A valve shall also be installed on the house side of the meter.

(Ord. 2045 – Jan. 05 Supp.)

91.06 METER COSTS.

1. Installation. All meters will be owned and maintained by the City water department. All meters must be the same type and from the same manufacturer used by the City or approved by the City. The City shall either install the water meter(s) or approve the installation of the meter by a licensed plumber prior to receiving water service. The installation fee for meters will be set by resolution of the City Council. The City water department shall have the final authority to determine the appropriate size of the meter based on the service requested.

2. Meter Installation Fees. The property owner shall pay an installation fee for every meter installed according to the fee schedule approved by the City Council prior to installation. There will be an additional fee for each additional meter and for larger meters that are required for a single-family residence (up to and including one inch). Payment of the additional fee must be received by the City prior to the installation of the meter by the City or a licensed plumber.

(Subsections 1&2 - Ord. 2178 – May 12 Supp.)

3. Meter Deposits. A deposit, as established by resolution of the City Council, will be required before any new meter installation for a new consumer is made, except that the water department will determine the amount of the deposit for users of large amounts of water. Said deposit is to be refunded upon the surrendering of the meter and when all bills for water used, repairs, etc., are paid in full. In the case of the consumer moving from one location to another within the City, and service remaining with the same named consumer, the deposit will be transferred. After having the meter in use and all bills paid for a period of eighteen months without delinquency, the deposit will be refunded,

except in the case of residential rentals, in which case Section 92.04 will apply. ***(Ord. 2045 – Jan. 05 Supp.)***

91.07 METER REPAIRS AND MAINTENANCE.

1. The owner or occupant of premises where a meter is installed shall be held responsible for its care and protection from freezing or hot water and from other injury or interference from any person or persons. In case of any injury to the meter, or in case of its stoppage or incorrect operation, the owner shall give immediate notice to the office of the water department. In all cases where meters are broken or damaged by negligence of owners or occupants of premises, or by freezing or hot water or other injuries except ordinary wear and tear, the necessary repairs to the meter shall be made by the water department and the costs of such repairs paid for by such owner or occupant. In case payment thereof is neglected or refused, the water supply shall be turned off and shall not be turned on until full payment has been made, together with any fee for turning on the water again, as established by resolution of the Council. Damaged meters may be repaired by the water department without first giving notice thereof to the owner of premises served by such meter.

2. No one shall in any way interfere with the proper registration of a water meter, and no one except an authorized employee of the water department shall break a seal of a meter, provided, however, that the building official may grant written permits to licensed plumbers in case of emergency to break such seal for draining pipes or stopping water leaks.

3. Where a water meter is installed on a water service in a premises that is to be remodeled, removed or destroyed, or where the service is discontinued so that the water meter is no longer needed, the owner of such premises shall give notice in writing to the water department to remove such meter. Free access to such meter must be provided at least twenty-four hours after notice is given so that the meter may be removed. The owner of the premises shall be held responsible for the meter until such written notice is given. If the meter is covered or lost, the owner shall be required to pay for the same at the actual value.

(Ord. 2045 – Jan. 05 Supp.)

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 TESTING. In case there is doubt on the part of the customer as to the accuracy of a water meter, such customer may have the meter tested by the Water Department, at which test the customer shall be present or have a representative present. If the meter is found to register within two percent (2%) of being correct, a charge of twenty-five dollars ($25.00) will be made to pay for a part of the labor for making such tests. If the meter is found to measure incorrectly more than two percent, no charge shall be made for making the test. If the meter should be found to over-register more than two percent, there shall be a proportional deduction made from the previous water bill. A water meter shall be considered to register satisfactorily when it registers within two percent of accuracy. Customers requesting inspection by City employees of premises because of an excessive water bill may be required to pay a fee of twenty-five dollars ($25.00), except that if the water meter is at fault, there would be no fee.

91.10 SEPARATE WATER METER. A separate additional meter may be installed for the purpose of measuring water usage outside a residence or business when such water is not discharged into the public sewer system. The property owner must purchase the additional meter and remote reading device and pay for its installation. The installation of the meter shall be accordance with the Superintendent's directives. The City shall retain ownership of the meter and shall have the right to inspect said meter from time to time to insure proper operation of the meter and to check for illegal bypassing of any other meter in the premises. The charges for such water service shall be at the same rate as other services, including minimum monthly charges, except that all water measured through the additional meter shall be exempt from sewer charges. However, no minimum monthly charge will be assessed for months that meter has no usage.

91.11 EXTERIOR REMOTE READING EQUIPMENT. All new water meter residential installations shall be installed with an exterior remote reading meter under the direction and supervision of the City unless otherwise authorized in writing by the Water Department. Any existing operational interior water meter shall be repaired, modified or changed to permit the installation of an exterior remote reading meter within sixty (60) days of receiving notice by certified mail of the nonconformance to this requirement. The owner shall make arrangements with the Water Department to allow access to the existing meter to make such change. The City shall furnish and install such exterior remote reading meters for a fee, based on costs. All exterior remote meters shall be so placed as to be accessible at all times by meter readers and inspectors. Care must be taken not to cover them with wood or other material or to preclude access by fencing or enclosing the yard area where the remote meter is located unless full, safe access is provided. If a remote meter should be inaccessible or covered, the Water Department will relocate

said remote reader. If the remote meter is not allowed to be relocated within the time fixed, the City will terminate water service to that location until the remote reader is allowed to be relocated.

91.12 TEMPORARY WATER SERVICE. When temporary service is desired by contractors, builders or others for water to be used on construction work or other temporary service applications, they shall make application to the Superintendent for a temporary fire hydrant meter. The meter will be subject to a deposit and installation fee as set by the City Council. The charges for such water service shall be at the same rate as other services, including minimum monthly charges. No one shall use water that is not measured by a meter furnished by the Water Department. All temporary fire hydrant meters shall be returned to the Water Department before November 1 of each year. A penalty equal to the cost of the equipment shall be charged for temporary fire hydrant meters that are not returned as above specified. The entity making application for the temporary fire hydrant meter shall be responsible for all water and expenses incurred in case of vandalism, abuse or neglect of the meter.

91.13 CONNECTIONS – SEPARATE METERS OR SERVICE REQUIRED FOR SEPARATE CONSUMERS.

1. Not more than one house shall be supplied with water from one service connection, except in case two or more apartments are located in one building and each tenant desires water furnished through a separate meter. In case two or more services are supplied from one connection, a curb cock and curb box must be supplied for each tenant or user and a separate service must be laid from the curb to the meter. Any deviation from the above requirements must be made by special permission of the building official or his/her designee.

2. When a violation exists, the building official or his/her designee shall cause a notice to be sent by certified mail to the owner or owners of said property directing the owner or owners to correct the violation within ten days from the receipt of said notice. If the owner or owners of the property fail to comply with the notice, the water department is authorized and empowered to make the corrections immediately. An itemized list of the costs of the correction shall be sent to the owner or owners in violation. If the costs of the correction are unpaid thirty days after the correction was completed, water service to the property shall be terminated until the costs are paid and the City shall proceed to collect the cost of the correction by any legal means.

(Ord. 2010 – Apr. 04 Supp.)

91.14 METER READING PROCEDURE – INACCESSIBILITY.

1. Meters shall be read periodically and the amount of water charged to the consumer, together with any other charges which may be due from the property owner. All water passing through said meter will be charged for whether used or wasted. A special charge of ten dollars shall be made for reading meters located in manholes, with a minimum of five dollars each for two or more meters in one manhole, unless changed to an outside meter which the City shall furnish and install upon request for a fee to be determined from time to time by the City Council, the above mentioned ten dollars to continue to be applied to costs of the meter until paid in full.

2. In the event that the City meter reader cannot gain access to an existing interior meter, the periodic reading may be made following the mailing of a letter to the owner to gain access. The letter shall notify the owner or tenant that an authorized representative of the City will visit the building on a specified date, at a specified time for the purpose of reading the meter and installing an exterior remote reading meter. At the specified date and time, an authorized representative shall visit the premises and after presentation of credentials by the authorized representative, the authorized representative will request permission to enter the building, read the water meter and install an exterior remote reading meter. Such credentials may be, at a minimum, a signed letter from the building official informing the occupant of the identity of the representative and the purpose of their visit.

3. If the owner or tenant refuses to permit access to the meter by the authorized representative of the City, the water department shall mail a letter by certified mail informing the owner or tenant that water service will be discontinued within five days of the date of the letter. At the end of five days, if permission to enter has not been granted, the supply shall be disconnected. No water supply shall then be made available or reconnected until such permission is granted, the meter is read, and the City is authorized in writing to install a remote reading meter on the premises at the owner's expense.

(Ord. 2045 – Jan. 05 Supp.)

CHAPTER 92

WATER RATES

92.01 Service Applications and Charges
92.02 Rates For Service
92.03 Billing for Water Service
92.04 Service Discontinued
92.05 Lien for Nonpayment
92.06 Lien Exemption
92.07 Lien Notice
92.08 Customer Deposits
92.09 Temporary Vacancy
92.10 Unauthorized Water Usage
92.11 Reconnection Fee
92.12 Prohibited Sale of Water by Consumer
92.13 Leak Protection Program

92.01 SERVICE APPLICATIONS AND CHARGES. Any person desiring a supply of water upon real estate owned or occupied by them must make application therefore to the water department. All accounts for such water service shall be kept in the name of the owner or landlord of the property serviced, and only such owner or landlord shall be recognized as the consumer, except where the tenant makes the deposit as allowed in this chapter and where the landlord or owner files the written notice that the tenant is liable for any charges. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not. ***(Ord. 2046 – Jan. 05 Supp.)***

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following rates:

(Code of Iowa, Sec. 384.84)

1. Rates Inside Corporate Limits of Boone:

	Meter Size	Effective 7/1/2010	Effective 7/1/2014	Effective 7/1/2015	Effective 7/1/2016
Base Rate	5/8-inch	$7.37	$8.00	$10.00	$12.00
	3/4-inch	$10.56	$11.19	$13.19	$15.19
	1-inch	$15.51	$16.14	$18.14	$20.14
	1 1/2-inch	$19.42	$20.05	$22.05	$24.05
	2-inch	$24.04	$24.67	$26.67	$28.67
	3-inch	$35.64	$36.27	$38.27	$40.27
	4-inch	$44.66	$45.29	$47.29	$49.29
	6-inch	$66.33	$66.96	$68.96	$70.96
Residential/Apartments-					
First 1,000 CF (per 100 CF)		$3.33	$3.33	$3.33	$3.33
Over 1,000 CF (per 100 CF)		$5.42	$5.42	$5.42	$5.42
Commercial/Industrial (per 100 CF)		$3.33	$3.33	$3.33	$3.33
Separate Meters/Bulk Sales (per 100 CF)		$5.42	$5.42	$5.42	$5.42

2. Rates Outside Corporate Limits of Boone:

	Meter Size	Effective 7/1/2010	Effective 7/1/2014	Effective 7/1/2015	Effective 7/1/2016
Base Rate	**5/8-inch**	**$17.22**	**$17.85**	**$19.85**	**$21.85**
	3/4-inch	**$22.11**	**$22.74**	**$24.74**	**$26.74**
	1-inch	**$31.96**	**$32.59**	**$34.59**	**$36.59**
	1 1/2-inch	**$36.85**	**$37.48**	**$39.48**	**$41.48**
	2-inch	**$41.69**	**$42.32**	**$44.32**	**$46.32**
	3-inch	**$58.96**	**$59.59**	**$61.59**	**$63.59**
	4-inch	**$71.28**	**$71.91**	**$73.91**	**$75.91**
	6-inch	**$105.60**	**$106.23**	**$108.23**	**$110.23**
Residential/Apartments- **First 1,000 CF (per 100 CF)** **Over 1,000 CF (per 100 CF)**		 **$6.30** **$10.25**	 **$6.30** **$10.25**	 **$6.30** **$10.25**	 **$6.30** **$10.25**
Commercial/Industrial-(per 100 CF)		**$6.30**	**$6.30**	**$6.30**	**$6.30**
Separate Meters/Bulk Sales (per 100 CF)		**$10.25**	**$10.25**	**$10.25**	**$10.25**
Master Meter Sales (per 100 CF)		**$5.42**	**$5.42**	**$5.42**	**$5.42**

3. Rates for Xenia Water District. Rates for Xenia Water District are established pursuant to a separate agreement with the district.

(Ord. 2201 – Dec 14 Supp.)

4. Rates for Logansport Water District. Rates for Logansport Water District shall be set by a separate agreement with the district.

5. Fire Protection Outside City Limits. The following charge is established for fire protection outside the City limits for industries and warehousing facilities: $192.00 per quarter.

(Ord. 2136 – Sep. 08 Supp.)
(Ord. 2163 – May 11 Supp.)

6. Rates shall be applied to property based on their property tax classification. If the classification changes after service commences, the property owner is responsible for notifying the water department of the new classification and the appropriate rate will take effect on the date the water department receives proof of the change of classification.

(Ord. 2186 – Apr. 13 Supp.)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. Bills for combined service accounts shall be issued on or before the fifteenth (15th) day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable by the fifth (5th) day of the following month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of one and one-half percent (1.5%) of the amount due shall be added to each delinquent bill per month, with a minimum penalty of $1.00 for water and a minimum penalty of $1.00 for sewer.

4. A charge will be assessed against anyone who pays their bill with a check which is dishonored at drawer's bank for any reason. This charge shall be set by resolution by the City Council.

(Ord. 2046 – Jan. 05 Supp.)

5. Due to the nature of the billing cycle, once a customer is disconnected and has a record of being habitually delinquent, that customer shall be required to pay the full amount of arrearages as well as the current bill before service is restored. If a stop box on any water service line of a customer who is habitually delinquent should need repairs, the City reserves the right to have such repairs made immediately. "Habitually delinquent" is defined as being delinquent two (2) or more times in any twelve-month period. The twelve-month period shall run from the date of the delinquency and not according to a calendar year. ***(Ord. 2120 – Feb. 08 Supp.)***

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

[Code of Iowa, Sec. 384.84(2)(c)]

1. Notice. Each delinquent customer shall be notified that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested at least three (3) days prior to the shut-off date, not counting weekends, as indicated on the notice, the Utility Committee shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Committee finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

(Ord. 2046 – Jan. 05 Supp.)

4. Fee. A reconnection fee, as established in Section 92.11, shall be charged before service is restored to a delinquent customer.

5. Termination of Charges. When water service is discontinued all charges for water service, as well as sewer service, shall terminate, including the minimum charge. However, storm sewer and landfill charges shall continue to accrue and be billed monthly regardless of account status. ***(Ord. 2125 – Sep .08 Supp.)***

6. When a customer has been disconnected or for whom credit action is pending, service will not be reconnected or continued in the name of another occupant or user of the premises if the previous customer or any other person liable for payment of the delinquent bill(s) continues to occupy or receive benefit of service provided at the premises, unless satisfactory arrangements are made to pay for the unpaid service at the premises. In addition, if a delinquent amount is owed by an account holder for a water bill, the City may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises.
(Ord. 2120 – Feb. 08 Supp.)

92.05 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 as per Section 92.07. ***(Ord. 2046 – Jan. 05 Supp.)***
[Code of Iowa, Sec. 384.84(3)(d)]

92.06 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. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service 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 and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water 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 ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service. The City may charge a fee for processing this request in an amount as set by resolution of the City Council. ***(Ord. 2120 – Feb. 08 Supp.)***
(Code of Iowa, Sec. 384.84)

92.07 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 at least 30 days prior to certification. 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. 2046 – Jan. 05 Supp.)***

(Code of Iowa, Sec. 384.84(3)(c))

92.08 CUSTOMER DEPOSITS. There shall be required from every customer served a deposit, in an amount established by resolution of the Council, intended to guarantee the payment of bills for service. The deposit shall be refunded when all bills are paid and the water meter is surrendered to the water department. In the event the customer moves to another location and all bills are paid, the deposit may be transferred to the new location. In the event there are unpaid bills, the deposit shall be applied to the past due bills and a new or additional deposit may be required before service is re-instituted at the new location. A homeowner, defined as anyone who owns or is purchasing real estate for his or her own use as a home, is exempt from the deposit requirement unless the homeowner has a record of having past-due utility bills.

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a twenty-five dollar ($25.00) fee collected for shutting the water off at the curb valve and a twenty-five dollar ($25.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein, there shall be no minimum service charge.

92.10 UNAUTHORIZED WATER USAGE. Anyone found to be obtaining water from the City without paying for it will be required to reimburse the City for the water used, plus interest, based on either an estimate computed by the City, using normal standards for the size of household, or based upon readings from a meter once installed and applied retroactively to the period during which water was obtained or believed to have been obtained. The readings shall be for up to thirty (30) days after the meter is installed. The water rates in effect for the period the water was used will be applied. Any amounts owed shall be paid to the City within thirty (30) days of the date a bill is mailed. If not paid within that period, a lien shall be placed on the property for said amount, or the City may proceed to file a legal action to obtain a judgment against the party in violation of this section. All liens and judgments shall continue to incur interest of 1½% per month until paid in full.

92.11 RECONNECTION FEE. The fee for reconnecting the supply of water due to an involuntary shut off for any violation of these Water Service chapters is fifty dollars ($50.00) if done between 8:00 a.m. and 4:00 p.m., Monday through Friday, and one hundred dollars ($100.00) any other time.

92.12 PROHIBITED SALE OF WATER BY CONSUMER. No consumer shall supply water to other persons, nor suffer them to take it. This does not refer to water districts which do have the right to resell water to its own customers. ***(Ord. 2046 – Jan. 05 Supp.)***

92.13 LEAK PROTECTION PROGRAM.

1. Leak. Accidental water loss due to plumbing/plumbing fixture failure or vandalism. Careless use of water or negligence resulting in water loss will not be considered a leak.

2. Leak Event. Maximum of one billing cycle where a leak occurred. City reserves the right to inspect to verify leak. Leak events will be considered new as of each billing cycle.

3. Program Qualifications.

   A. Applicant must file an application for each new account and that application must be approved by the Utility Billing Department.

   B. Program qualification becomes effective after the first full billing cycle from the date an application is approved by the Utility Billing Department.

   C. Account must be in good standing according to internal policy of the Utility Billing Department.

   D. Must be a residential account.

   E. Landlords may participate if the account remains in the landlords name and that landlord is fully responsible for the bill.

   F. The participant must be the account holder where the leak occurs.

4. Exclusions. The following accounts are excluded from participation in the Leak Protection Program:

   A. Irrigation meter accounts.

   B. Any industrial property/account.

5. Final Determination.

   A. The Utility Billing Supervisor has the final judgment in determination of program qualifications.

B. The Utility Billing Supervisor, or their designee, reserves the right to inspect the property to verify the leak. Failure to accommodate this inspection shall disqualify the account holder from program benefits.

(1) In the event an inspection yields proof that a leak did not occur, the Utility Billing Supervisor may deny program benefits.

(2) The Utility Billing Supervisor may require proof of repairs associated with leaks.

6. Guidelines.

A. To qualify account holders must file an application and be approved by the Utility Billing Supervisor.

B. A twelve (12) month rolling average is used to determine the average bill.

C. When a program participant has a leak event, as verified by the Utility Billing Supervisor or their designee, the account holder shall be responsible for the average bill as well as the first $100 of excess usage.

D. Accounts having multiple leak events shall only be allowed to waive usage from two billing cycles for the purposes of calculating the average bill. The third and all subsequent leak events shall be used to calculate the average bill.

E. In the event of a leak spanning multiple billing cycles, each billing cycle shall constitute a new leak event.

F. Properties having a pool with volume larger than 4,000 gallons (i.e. 15’ diameter at 3’ depth) may not be eligible for program benefits.

G. To receive benefits the program participant must file a Utilization Form for each leak event. The form will be reviewed by the Utility Billing Supervisor. The program participant will be contacted by the City once a final determination is made.

7. Variance. In the event a program participant disagrees with a determination of the Utility Billing Supervisor, an appeal may be made to the Utility Committee. The Utility Committee may then take action to uphold or vary from the decision made by the Utility Billing Supervisor.

8. Program Modification or Termination.

A. The City may modify the terms of the Leak Protection Program through the ordinance amendment process.

B. The City may adjust Leak Protection Program rates to accommodate program usage or inflationary expenses by resolution.

The cost of this program shall be automatically added to the monthly water bill unless the customer opts out of the program. The cost of the program will be set by resolution of the City Council and reviewed whenever the water rates change. The City reserves the right to terminate the program at any time.

(Ord. 2180 – Apr. 13 Supp.)

CHAPTER 93

WATER CONSERVATION REGULATIONS

93.01 Authorization
93.02 Application
93.03 Water Conservation Plan
93.04 Water Conservation Plan Stages
93.05 Notification

93.01 AUTHORIZATION. The Mayor, upon the recommendation of the City Water Department, is hereby authorized and directed to implement the applicable provisions of this chapter upon the determination that such implementation is necessary to protect the public welfare and safety. Said implementation shall be ordered by the Mayor in the event should a Governor's Declaration declaring a statewide or localized Drought Emergency be issued and the City Water Department shall comply with any orders relating thereto.

93.02 APPLICATION. The provisions of this chapter apply to all persons, customers and property served by the City Water Department, wherever situated, including water supplied to Rural Water Districts.

93.03 WATER CONSERVATION PLAN. The Water Conservation Plan shall be initialized by the occurrence of drought, contamination of the water supply, equipment failure, natural disaster, or any condition involving the general welfare of the City. No customer of the City Water Department shall knowingly make, cause, or permit the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this chapter or in an amount in excess of that use permitted by the following conservation stages, which are in effect pursuant to action taken by the Water Department, in accordance with the provisions of this chapter.

93.04 WATER CONSERVATION PLAN STAGES. The following stages of the water conservation plan are created:

1. Stage 1 – Water Normal Supply. Stage 1 applies during periods when a normal supply and distribution capacity is available, while demand levels are not expected to increase significantly in the immediate future. Elements of Stage 1 include:

   A. Implementation of the Water Management Plan and Conservation Program by the City Water Department.

   B. Adoption of a Public Works Policy which is an Action Plan for Implementation of Water Conservation Techniques.

   C. Failure to repair a controllable leak is defined as a waste of water and is prohibited. The City is hereby authorized to require any property owner to repair any water leak which is brought to the City's attention either through inspections or by reports from citizens.

2. Stage 2 – Water Watch. The stated goal is to cut home water consumption by as much as 10%.

A. Indications of this stage may include:

(1) Extended drought forecast.

(2) Water demand equaling 75% of plant capacity.

(3) Projected mandatory water plant or supply system maintenance limiting water supply.

(4) Decrease in raw water supply.

B. Water Watch Department Actions: The City Water Department, Mayor, Public Works or Fire Department shall notify the City Utility Committee of the impending water shortage. The City Council shall have the authority to:

(1) Authorize the City Utility Committee to investigate the scope of the shortage and report to the Council. Upon their recommendation, the Council may implement Stage 2 - Water Watch.

(2) Initiate additional conservative measures.

(3) Step up awareness of the problem through the media.

(4) Accelerate maintenance on well fields and plant facilities.

(5) Appeal to the public for a reduction in water consumption.

(6) Direct the City Water Department to initiate dialogue with other City and County Departments for possible assistance should the watch be upgraded to warning.

3. Stage 3 – Water Warning. The stated goal of this stage is the reduction of all water use from 11% to 20%.

A. Indications of this stage may include:

(1) Water demand equaling 85% of treatment plant capacity.

(2) Significant decreases in the pumping level in wells or fire fighting adequacy.

B. Water Warning Department Actions: A report from the City Water Department, Public Works, Fire Department, Mayor, or the Utility Committee to the Council shall give the Council the authority to declare this Stage 3 - Water Warning in effect and impose the following mandatory conditions. Upon implementation of Stage 3, and publication of notice as provided in Section 362.3 of the Code of Iowa, the following restrictions shall apply to all persons:

(1) Irrigation utilizing individual sprinklers or sprinkler systems for established lawns, gardens, landscaped areas, trees, shrubs, or other plants is prohibited except on designated days which shall be determined by the City Utility Committee and only then during the hours of eight o'clock (8:00) p.m. to eight o'clock (8:00) a.m. Irrigation of newly planted lawns, gardens, landscaped areas, trees, shrubs or other plants are permitted at any time except commercial nurseries and similar establishments are exempt from Stage 3. However, those exempt from Stage 3 irrigation restrictions will be requested to urge the use of xeriscaping (low water use landscaping) and to curtail nonessential water use (see Appendix A).

(2) The washing of automobiles, trucks, trailers, boats and other types of mobile equipment, unless wash water is recycled, is prohibited except on designated irrigation days between the hours of six o'clock (6:00) p.m. and eleven o'clock (11:00) a.m. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. The hose shall be removed when it is not in use. EXCEPTION: Washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washings are exempted from these regulations where the health, safety and welfare of the public are contingent upon frequent vehicle cleanings such as garbage trucks and vehicles to transport food and perishables.

(3) The filling, refilling and adding of water to uncovered outdoor swimming pools, wading pools or spas is prohibited except on designated irrigation days between the hours of six o'clock (6:00) p.m. and ten o'clock (10:00) a.m.

(4) Use of water from fire hydrants shall be limited to fire fighting, related activities and/or other activities necessary to maintain the health, safety and welfare of the residents of the City.

(5) Water shall not be used to wash down sidewalks, driveways or other paved areas except to alleviate immediate fire or sanitation hazards.

(6) No water shall be used for air-conditioning purposes.

(7) Unmetered construction water shall not be permitted.

None of these restricted activities shall apply when the water has been reclaimed or recycled after an essential primary use.

C. The Council shall have the authority to impose a water rate surcharge on the amount of water used by a business or industry

exceeding the amount used during the corresponding month of the preceding year. Exceptions would be any business or industry that is declared by resolution of the City Council to be necessary for public health, safety and welfare. Where there is no corresponding period of use, the utility will work with the customer to establish an equitable base quantity.

D. The Council has the authority to investigate water rationing and planning for Stage 4.

E. The Council shall have the right to amend or add restrictions. The Council shall also establish an appeal procedure.

4. Stage 4 – Water Emergency. The stated goal of this stage is the reduction of all water use by 20% or more.

A. Indications of this stage may include:

(1) Water demand equaling 100% of treatment capacity.

(2) Recommendation of City departments.

(3) Failure of major system facility such as feeder main or treatment plant.

(4) Significant decreases in the pumping level of wells, forecast of extended drought conditions or decreases in fire fighting adequacy.

B. Water Emergency Department Actions: A report from the City Water Department and City Utility Committee shall give the Council the authority to declare a Stage 4 - Water Emergency and impose the following mandatory conditions at their discretion.

(1) All outside water use shall be banned.

(2) Implement the water-rationing plan based on the Priority Allocation System listed in Appendix A.

(3) Apply rationing measures as recommended by the City Utility Committee.

93.05 NOTIFICATION The Mayor may order that the appropriate phase of water conservation be implemented or terminated in accordance with the applicable provision of this chapter. Said order shall be made by public announcement, by posting the same in the City Hall, local bank, and Post Office, and shall be published a minimum of one time in a weekly newspaper of general circulation and shall continue to be published on a weekly basis until such time as all restrictions are removed and shall become effective immediately upon posting of said notice.

CHAPTER 94

CROSS CONNECTION AND BACKFLOW PREVENTION

94.01 Definitions
94.02 Purpose
94.03 Administrative Authority
94.04 Responsibility
94.05 Administration
94.06 Required Backflow Prevention Assemblies
94.07 Backflow Prevention Assembly Technicians
94.08 Installation of Backflow Prevention Assemblies
94.09 Testing of Backflow Prevention Assemblies
94.10 Repair of Backflow Prevention Assemblies
94.11 Existing Backflow Prevention Assemblies
94.12 Customer Non-Compliance
94.13 Permits
94.14 Records and Reports
94.15 Fees and Charges

94.01 DEFINITIONS. The definitions below shall apply only to this chapter. The definitions below shall take precedence over definitions given in any other chapter.

1. "Administrative Authority" means the City of Boone Building and Zoning Department for the purposes of this chapter.

2. "Approved Backflow Prevention Assembly for Containment" means a backflow prevention assembly having met the requirements of ANSI-AWWA Standard C510-89, "Double Check Valve Backflow Prevention Assemblies", or ANSI-AWWA Standard C511-89, "Reduced Pressure Principle Backflow Prevention Assemblies". In addition to meeting the standards stated above, the back flow prevention assembly shall include the limitations of use based on the degree of hazard as well as be listed by the International Association of Plumbing and Mechanical Officials.

3. "Auxiliary Water Supply" means any water supply on or available to the premises other than the water purveyor's approved public water supply. Examples include but are not limited to a private well, river, reservoir, and pond.

4. "Backflow" means the flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

5. "Building Official" means the Director of the City of Boone Building and Zoning Department or any duly authorized assistant, agent or representative.

6. "Containment" means a method of backflow prevention which requires installing a backflow prevention assembly at the water service entrance to isolate the entire system downstream of the water service connection.

7. "Contaminant" means a substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

8. "Cross Connection" means any actual or potential connection between the public potable water supply and a possible source of contamination or pollution.

9. “Customer” means the owner, operator, or occupant of a building or property which has a water service from a public potable water system or owners of private water systems that receive their water from public potable water systems.

10. “Degree of Hazard” means the rank of a cross connection's potentiality to harm the public potable water system. The rank is usually whether the cross connection has the capability to cause either contamination or pollution; contamination synonymous with high hazard and pollution synonymous with low hazard.

11. “Department” means the City of Boone Building and Zoning Department.

12. “Double Check Valve Backflow Prevention Assembly” means an assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

13. “High Hazard Cross Connection” means a cross connection with the potentiality to cause an impairment of the water quality which would generate a risk to public health. Examples include but are not limited to industrial chemicals, wastewater, etc.

14. “Isolation” means a method of backflow prevention in which a backflow prevention device is located to correct a cross connection at an in-plant location rather than at a water service entrance.

15. “Low Hazard Cross Connection” means a cross connection with the potentiality to cause an impairment of the water quality which would not generate a risk to public health but would adversely affect the aesthetic qualities of the water.

16. “Permit” means a document issued by the Department which allows the use of a backflow prevention assembly.

17. “Pollutant” means a foreign substance, that if permitted to get into the public potable water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

18. “Reduced Pressure Principle Backflow Prevention Assembly” means an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and relief valve.

19. “Registered Backflow Prevention Assembly Technician” means a person who is trained to test and repair backflow prevention assemblies as well

as report on the conditions of back flow prevention assemblies. The technician must be registered by the State of Iowa.

20. "Thermal Expansion" means volumetric increase of water due to heating resulting in increased pressure in a closed system.

21. "Water Service" means the connection between the public potable water system and a customer's property or building. The water service connection is the point in the public potable water system beyond the sanitary control of the Department.

94.02 PURPOSE. This chapter is intended to accomplish the following:

1. Protect the public potable water supply served by the Department from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public potable water system.

2. Promote the elimination or control of existing cross connections, actual or potential, between its customers in-plant potable water system, and non-potable systems.

3. Provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

94.03 ADMINISTRATIVE AUTHORITY. The following authorities shall be recognized:

1. The Federal Safe Drinking Water Act of 1974 and the statutes of the Iowa Administrative Code. The water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.

2. The City of Boone, Rules, Regulations, and Ordinances adopted.

3. The Department shall have the right to enter any property to inspect for possible cross connections. To enter any property, the Department must have either the consent of the customer or a warrant from a court of appropriate jurisdiction.

4. The Department shall maintain records of the following:

A. Cross Connection Hazard Surveys

B. Cross Connection Permits and Permit Applications

C. Cross Connection Inspections, Installations, Testing, and Repairs

94.04 RESPONSIBILITY. The responsibilities for the Department and customer are the following:

1. The Department shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the back flow of contaminants or pollutants through the water service connection. If, in the judgment of the Building Official, an approved backflow device is required at the City's water service connection to any customer's premises, the Building Official or his delegated agent shall give notice in writing to said customer to install an approved back flow prevention device at each service connection to his premises. The customer shall, within ninety (90) days install such approved device, or devices, at his own expense, and failure to install said device or devices within 90 days shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

2. The customer shall be responsible for the elimination or protection of all cross connections on his/her premises. The customer shall also inform the Department of any cross connection of which the customer is aware but has not been found by the Department.

3. The customer shall, at his or her own expense, install, maintain, and test, or have tested, all backflow prevention assemblies on his/her premises.

4. The customer shall ensure that all records from any installation, testing, or repairs of a backflow prevention assembly are submitted to the Department within fifteen (15) days of the installation, test, or repair.

5. The customer shall immediately notify the Department if any backflow does occur as well as proceed to isolate the contamination or pollution.

6. The customer shall install only backflow prevention assemblies approved by the Department.

7. The customer shall be responsible for the payment of all fees for permits, testing, re-testing if necessary, inspections, and re-inspections if necessary.

94.05 ADMINISTRATION. The provisions of this section shall be administered according to the following:

1. For new water services:

A. The Department shall establish the degree of hazard for a particular entity from review of submitted plans and site visits.

B. The Department shall determine the type of backflow prevention assembly required for the new water service based on the degree of hazard from (A) above. Also See 94.06 below.

C. Before the water service is turned on for use, the Department shall inspect the installation of the backflow prevention assembly and the backflow prevention assembly must be tested by a registered backflow prevention assembly technician.

2. For existing water services:

A. If a water service is to be upgraded after adoption of this ordinance, the upgraded water service shall be treated as a new water service.

B. The Department shall publish the standards they will use to determine the degree of hazard within three (3) months after adoption of this ordinance.

C. The Department shall determine the classification of each dwelling in the City. Within three (3) months after publication of these standards, those customers whose premises are classified as single family residential will not be required to complete a cross connection survey and will not be contacted by the Department. Within three (3) months after publication of these standards, those customers whose premises are not classified as single family residential will be required to complete a cross connection survey and will be contacted by the Department. The Department may also perform on premise investigations for those premises that are not classified as single family residential. The Department will use the information from the cross connection surveys and on premise investigations to determine the degree of hazard associated with each water service.

D. The Department shall determine the type of backflow prevention assembly from the degree of hazard determined in (C) above.

E. The Department shall notify the customer of which type of backflow prevention assembly is required for their water service. After notification by the Department, the customer shall install the required backflow prevention assembly within ninety (90) days. The Department reserves the right to reduce the 90 day time frame if they deem necessary depending on the degree of hazard.

F. If during an on-premise investigation the Department determines that there is a high hazard cross connection, the Department reserves the right to terminate the water service until an approved backflow prevention assembly has been installed and tested. The Department has the authority to determine a schedule of compliance for the customer.

G. Customers shall not be relieved of their responsibility to eliminate cross connections if they are not contacted by the Department. Customers are required to conform to all the requirements of this ordinance after its adoption even if they are not instructed to do so.

94.06 REQUIRED BACKFLOW PREVENTION ASSEMBLIES. The type of backflow prevention assembly required shall be selected according to the following:

1. For water services:

A. For those cross connections which the Department has classified as high hazard, a minimum of an air gap or an approved reduced pressure principle backflow assembly is required.

B. For those cross connections which the Department has classified as low hazard, a minimum of an approved double check valve assembly is required.

2. For fire protection systems:

A. A reduced pressure principle back flow prevention assembly shall be installed if the Department finds at least one of the following:

(1) Direct connections from public water mains to an auxiliary water supply for a pump connection.

(2) Direct connections from public water mains to an auxiliary water supply.

(3) The customer using antifreezes or other additives.

(4) Combined industrial and fire protection systems supplied from public water mains.

(5) Connections between a public water main and any other facility that may cause contamination.

B. A double check valve assembly will be required for all other fire protection systems, new or existing.

94.07 BACKFLOW PREVENTION ASSEMBLY TECHNICIANS. Requirements for backflow prevention assembly technicians include the following:

1. The Technician must be registered in the State of Iowa to perform testing and repairs.

2. The Technician's registration number shall be on all forms associated with this chapter.

3. Improper testing, improper repair, improper reporting of results, or any other unethical practice shall be grounds of reporting said individual to the State.

94.08 INSTALLATION OF BACKFLOW PREVENTION ASSEMBLIES. General and specific requirements for the installation of backflow prevention assemblies are shown below:

1. General requirements for the installation of backflow prevention assemblies include the following:

A. Installed in horizontal plumbing.

B. Installed immediately following the water meter.

C. Installed upstream of branch piping.

D. Installed to be protected from freezing.

E. Installed to be protected from thermal expansion if hot water is used within the water system.

F. Installed not to create a safety hazard (e.g. above an electrical panel).

G. Installed to be accessible for testing.

H. Installed to the specifications of the manufacturer for all check valves, shut off valves, pressure relief valves, etc.

I. Installed with two backflow prevention assemblies in parallel piping if interruption of water service is unacceptable.

J. Installed as to the Department's instructions.

2. Specific requirements for the installation of reduced pressure principle backflow prevention assemblies include the following:

A. They shall be protected from flooding.

B. They shall be discharged to an appropriate drain.

C. They shall not be installed in underground vaults.

94.09 TESTING OF BACKFLOW PREVENTION ASSEMBLIES. General instructions for the testing of backflow prevention assemblies are shown below:

1. The test must be performed by a registered backflow prevention assembly technician.

2. The costs of all testing shall be paid by the customer.

3. The backflow prevention assemblies shall be tested and inspected according to the following:

A. A backflow prevention device must be tested immediately following installation.

B. A backflow prevention device must be tested at least once per year.

C. A backflow prevention device, if it is out of operation for more than three (3) months, must be tested before it is put back into operation.

D. A backflow prevention assembly, if it fails a test, must be repaired or replaced and then retested.

E. A backflow prevention device, if a water service is terminated for any reason, must be tested before the water service is continued.

F. A backflow prevention assembly must be tested any time the Department requires that a test be done.

4. The registered back flow prevention assembly technician must report the results of each test to the customer and the Department within fifteen (15) days after the test was completed. The Department will only accept results reported on the provided form.

94.10 REPAIR OF BACKFLOW PREVENTION ASSEMBLIES. Any repairs or modifications of back flow prevention assemblies shall be according to the following:

1. The Department will only accept repairs that are done by registered backflow prevention assembly technicians.

2. The registered backflow prevention assembly technician shall only use original manufacturer replacement parts for repairs and shall not change the technical aspects of the backflow prevention assembly including the design, materials, and operational characteristics.

3. The registered backflow prevention assembly technician must report the repairs done on a backflow prevention assembly to the customer and the Department within fifteen (15) days after the repair was completed. The technician must also report the results of the testing of the repaired backflow prevention assembly to the customer and the Department in the same time period. The technician must document the repair. The documentation shall include replacement parts used.

4. The fire marshal shall be notified by the registered back flow prevention assembly technician if a backflow prevention assembly used for a fire protection service is going to be repaired or tested. The registered back flow prevention assembly technician must estimate the time it will take for such repairs or testing and report the estimated time to the fire marshal.

94.11 EXISTING BACKFLOW PREVENTION ASSEMBLIES. Any existing backflow prevention assembly shall be allowed by the Department to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present back flow prevention assembly, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow prevention assembly must be upgraded to a reduced pressure principle device, or a reduced pressure principle device must be installed in the event that no backflow prevention assembly was present.

94.12 CUSTOMER NON-COMPLIANCE. The water service may be discontinued in the case of non-compliance with this ordinance. Non-compliance includes, but is not limited to, refusal to allow the Department access to property to inspect cross connections, removal of a required backflow prevention assembly, failure to install a required backflow prevention assembly, and failure to properly test or properly repair a backflow prevention assembly when warranted.

94.13 PERMITS. The Department shall not permit a cross connection within the public water supply system unless it is considered necessary and that it cannot be eliminated. Permits for cross connections that cannot be eliminated shall be obtained and renewed according to the following:

1. Cross connection permits are required for each backflow prevention assembly. The cross connection permits can be obtained from the Department.

2. Permits shall be renewed every three (3) years and are non-transferable. Permits are subject to revocation and become immediately revoked if the customer should so change the type of cross connection or degree of hazard associated with the service.

94.14 RECORDS AND REPORTS. The Department will initiate and maintain the following:

1. The Department will initiate and maintain the files on cross connection permits.

2. Copies of permits and permit applications.

3. Files on customer cross connection tests and/or inspections.

94.15 FEES AND CHARGES. Fees will be set by resolution of the City Council based on the recommendations of the building official. The Department will then publish a list of fees or charges for the following services or permits:

1. Fee for re-inspection of premises.

2. Permit Fee.

3. Renewal of Permit Fee.

4. Charges for after-hours inspections or tests.

(Ch. 94 – Ord. 2128 – Feb. 08 Supp.)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Prohibited Acts
95.04 Sewer Connection Required
95.05 Service Outside the City
95.06 Plumber Required
95.07 Connection Requirements
95.08 Property Owner's Responsibility
95.09 Abatement of Violations

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. "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.

2. "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.

3. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

4. "Sewer" means a pipe or conduit for carrying sewage.

5. "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.

6. "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.

95.03 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. Manholes. Open or enter any manhole of the sewer system, except by authority of the Public Works Director.

3. 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.

4. 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])

5. 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])

95.04 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 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, provided that the public sewer is available as provided in the *Uniform Plumbing Code*.

95.05 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])

95.06 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber licensed by the City. A plumber's license may be suspended for violation of any of the provisions of these Sanitary Sewer chapters.

95.07 CONNECTION REQUIREMENTS.

1. The installation of the building sewer and its connection into the public sewer shall conform to the requirements of the *Uniform Plumbing Code* and applicable rules and regulations of the City.

2. A sewer connection is restricted to one connection per residence, house, building, or mobile home. In reference to townhomes, a separate sewer connection is required for each residential unit in the townhome. Regarding apartment buildings, only one sewer connection is required for the entire building as long as it complies with Chapter 7 of the Uniform Plumbing Code.

(Ord. 2007 – Apr. 04 Supp.)

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

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

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

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CHAPTER 96

USE OF PUBLIC SEWERS

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96.02 Administration
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96.04 Definitions
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96.08 National Categorical Pretreatment Standards
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96.54 Liability Insurance
96.55 Water Supply Severance
96.56 Upset
96.57 Prohibited Discharge Standards
96.58 Bypass

96.01 PURPOSE AND POLICY. This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq*.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this chapter are:

1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation.

2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works.

3. To protect both the general public and Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment.

4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works.

5. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the Publicly Owned Treatment Works.

6. To enable the City of to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This chapter shall apply to all users of the Publicly Owned Treatment Works. This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

96.02 ADMINISTRATION. Except as otherwise provided herein, the Public Works Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Public Works Director may be delegated by the Public Works Director to other City personnel.

96.03 ABBREVIATIONS. The following abbreviations, used in this chapter, shall have the designated meanings:

- BOD Biochemical Oxygen Demand
- CFR Code of Federal Regulations
- COD Chemical Oxygen Demand
- EPA U.S. Environmental Protection Agency
- gpd gallons per day
- mg/l milligrams per liter
- NPDES National Pollutant Discharge Elimination System
- POTW Publicly Owned Treatment Works
- RCRA Resource Conservation and Recovery Act
- SIC Standard Industrial Classification
- TSS Total Suspended Solids
- U.S.C. United States Code

96.04 DEFINITIONS. Unless a provision explicitly states otherwise the following additional terms and phrases, as used in this chapter, have the meanings hereinafter designated.

1. "Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 *et seq*.

2. "Approval authority" means the Iowa Department of Natural Resources.

3. "Authorized representative of the user" means the following:

A. If the user is a corporation:

(1) The President, Secretary, Treasurer or a Vice President of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

(2) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

C. If the user is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or such official's designee.

D. The individuals described in paragraphs A through C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

4. "Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20º centigrade, usually expressed as a concentration (e.g., mg/l).

5. "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

6. "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

7. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

8. "Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

9. "Grab sample" means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

10. "Indirect discharge" or "discharge" means the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

11. "Instantaneous maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

12. "Interference" means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

13. "Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

14. "New source" means the following:

A. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraph (A)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(1) Begun, or caused to begin, as part of a continuous on-site construction program. (i) any placement, assembly, or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. options to purchase or contracts which can be terminated or modified

without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

15. "Non-contact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

16. "Pass-through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

17. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

18. "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

19. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, OD, COD, toxicity, or odor).

20. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

21. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

22. "Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

23. "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances.

24. "Publicly Owned Treatment Works" or "POTW" means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

25. "Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

26. "Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.).

27. "Significant industrial user" means the following:

A. A user subject to categorical pretreatment standards; or

B. A user that:

(1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

(2) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

C. Upon a finding that a user meeting the criteria in paragraph B has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

28. "Slug load" or "slug" means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this chapter.

29. "Standard industrial classification code" (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Offices of Management and Budget.

30. "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

31. "Superintendent" means the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

32. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

33. "User" or "industrial user" means a source of indirect discharge.

34. "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

35. "Wastewater treatment plant" or "treatment plant" means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

96.05 CONNECTION PERMIT REQUIRED. No connection shall hereafter be made with any public sewer from any lot or public parcel of land within the City unless such person desiring to make such connection first secures a permit from the Building Official.

96.06 CONNECTION FEE. The person desiring to obtain such permit shall pay a connection fee to the City, which amount shall be determined as set forth by Resolution of the Boone City Council.

(Ord. 2193 – Dec. 14 Supp.)

96.07 PROHIBITED DISCHARGE STANDARDS.

1. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State or local pretreatment standards or requirements.

2. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

A. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flash point of less than 140ºF (60ºC) using the test methods

specified in 40 CFR 261.21. These wastes include but are not limited to gasoline, benzene, naphtha, fuel oil, etc.

B. Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment.

C. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (½") or one and twenty-seven hundredths centimeters (1.27 cm) in any dimension; such as but not limited to sand, mud, straw, shavings, metal, glass, rags, tar, plastics, woods, whole blood, paunch manure, hair and fleshings, entrails, paper, dishes, cups, etc.

D. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.

E. Any wastewater having a temperature greater than 140ºF (60ºC), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104ºF (40ºC).

F. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.

G. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

H. Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Section 96.15 of this chapter.

I. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.

J. Wastewater which produces objectionable color, odor or aesthetically objectionable conditions.

K. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.

L. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent. All sump pumps must discharge into a storm sewer, a sump pump collection system, or natural outlet, such as a creek, abutting the property. Sump pump discharge may be discharged into the street, however, it must not create a dangerous condition to the public, including but not limited to the formation of ice. Any household that currently has a system that permits the switching of sump pump discharge into the sanitary sewer commencing November 1st and ending March 31st may continue to do so. The City will permit new connections to install a similar switching mechanism, however, it will only be permitted between the street and the owner's yard so long as the storm water flows away from adjoining property and shall not create a nuisance. If a homeowner violates the time period or creates a nuisance, a municipal infraction will be filed against them and they will be required to eliminate the switch over system.

(Ord. 2162 – May. 11 Supp.)

M. Sludges, screenings, or other residues from the pretreatment of industrial wastes.

N. Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit.

O. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

P. Detergents, surface-active agents, or other substances which, either singly or by interaction with other pollutants, will cause interference with the POTW.

Q. Fats, oils, or greases of animal or vegetable origin in concentrations which will cause interference with the POTW.

R. Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.

S. Any substance which, if disposed of otherwise, would be a hazardous waste as defined under 40 CFR Part 261. Pollutants, substances, or wastewater prohibited by this section shall not be

processed or stored in such a manner that they could be discharged to the POTW.

96.08 NATIONAL CATEGORICAL PRETREATMENT STANDARDS. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

96.09 STATE PRETREATMENT STANDARDS. State regulations and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations of those in this chapter.

96.10 LOCAL LIMITS. The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits without a wastewater discharge permit.

190 mg/l ammonia nitrogen

0.025 mg/l arsenic

0.050 mg/l benzene

1.100 mg/l beryllium

500 mg/l BOD_5

0.030 mg/l cadmium

0.250 mg/l chromium

0.250 mg/l copper

0.023 mg/l cyanide

0.100 mg/l lead

0.00045 mg/l mercury

0.228 mg/l nickel

100 mg/l oil and grease

0.046 mg/l selenium

0.024 mg/l silver

0.360 mg/l total phenols

1,000 mg/l total suspended solids

0.120 mg/l zinc

The above limits apply at the point where the industrial wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

96.11 CITY'S RIGHT OF REVISION. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

96.12 DILUTION. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

96.13 PRETREATMENT FACILITIES. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this chapter within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this chapter.

96.14 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS. At least once every two (2) years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by this chapter; and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

96.15 HAULED WASTEWATER.

1. Septic tank waste may be accepted into the Water Environment Plant at a designated receiving structure within the treatment plant area, and at times as are established by the Superintendent, provided such waste do not violate any provisions of this chapter or any other requirements established or adopted by the City. Waste Hauler permits for individual companies to use such facilities shall be issued by the Superintendent. Cost of a permit shall be established by Resolution of the Boone City Council and are to be renewed each calendar year.

2. Hauled industrial waste requires prior approval by the Superintendent. Superintendent shall have authority to prohibit the disposal of such waste, if such disposal would interfere with the treatment plant operations. Hauler shall identify the type of industry, known or suspected waste constituents, and whether any wastes are considered hazardous wastes.

3. Superintendent may require waste hauler to provide a waste analysis of any load prior to dumping to ensure compliance with applicable standards, at haulers expense.

4. Waste Haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the source of waste, volume, and characteristics of waste.

5. Fee for disposal of hauled waste shall be established by Resolution of the Boone City Council.

(Ord. 2193 – Dec. 14 Supp.)

96.16 WASTEWATER ANALYSIS. When requested by the Superintendent, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Superintendent is authorized to prepare a form for the purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this chapter.

96.17 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent.

2. The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.

96.18 WASTEWATER DISCHARGE PERMIT APPLICATION. The application for a wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:

1. All information required by Section 96.28 of this chapter.

2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

3. Number and type of employees, hours of operation, and proposed or actual hours of operation.

4. Each product produced by type, amount, process or processes, and rate of production.

5. Type and amount of raw materials processed (average and maximum per day).

6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

7. Time and duration of discharges.

8. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

96.19 APPLICATION SIGNATORIES AND CERTIFICATION. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or

persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

96.20 WASTEWATER DISCHARGE PERMIT DECISIONS. The Superintendent will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit.

96.21 WASTEWATER DISCHARGE PERMIT DURATION. A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire. An industrial permit will remain in effect after the expiration date provided the user has submitted a timely and complete application for permit renewal prior to the permit expiring.

96.22 WASTEWATER DISCHARGE PERMIT CONTENTS. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

1. Wastewater discharge permits must contain:

   A. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

   B. A statement that the wastewater discharge permit is nontransferable without prior notification to the City and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

   C. Effluent limits based on applicable pretreatment standards;

   D. Self monitoring, sampling, reporting, notification, and record-keeping requirements (these requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law); and

E. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.

2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

A. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

B. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

C. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

D. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

E. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

F. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

G. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

H. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter, and State and Federal laws, rules, and regulations.

96.23 WASTEWATER DISCHARGE PERMIT APPEALS. The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within twenty (20) days of notice of its issuance.

1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

4. If the Superintendent fails to act within ten (10) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Boone County District Court within thirty (30) days.

96.24 WASTEWATER DISCHARGE PERMIT MODIFICATION. The Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State or local pretreatment standards or requirements;

2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;

5. Violation of any terms or conditions of the wastewater discharge permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

8. To correct typographical or other errors in the wastewater discharge permit; or

9. To reflect a transfer of the facility ownership or operation to a new owner or operator.

96.25 WASTEWATER DISCHARGE PERMIT TRANSFER. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

2. Identifies the specific date on which the transfer is to occur; and

3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

96.26 WASTEWATER DISCHARGE PERMIT REVOCATION. The City may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;

2. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 96.32 of this chapter;

3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

4. Falsifying self-monitoring reports;

5. Tampering with monitoring equipment;

6. Refusing to allow the Superintendent timely access to the facility premises and records;

7. Failure to meet effluent limitations;

8. Failure to pay fines;

9. Failure to pay sewer charges;

10. Failure to meet compliance schedules;

11. Failure to complete a wastewater survey or the wastewater discharge permit application;

12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

96.27 WASTEWATER DISCHARGE PERMIT REISSUANCE. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

96.28 BASELINE MONITORING REPORTS. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in this section. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users shall submit the following information:

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

2. Environmental Permits. A list of any environmental control permits held by or for the facility.

3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

5. Measurement of Pollutants.

A. The categorical pretreatment standards applicable to each regulated process.

B. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this chapter.

C. Sampling must be performed in accordance with procedures set out in this chapter.

6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 96.29 of this chapter.

8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with this chapter.

96.29 COMPLIANCE SCHEDULE PROGRESS REPORTS. The following conditions shall apply to the compliance schedule required by Section 96.28(7) of this chapter:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include,

but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

2. No increment referred to above shall exceed nine (9) months;

3. The user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

4. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

96.30 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Section 96.28(4) through (6) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge unit of production (or other measure of operation), this shall include the user's actual production during the sampling period. All compliance reports must be and certified in accordance with this chapter.

96.31 PERIODIC COMPLIANCE REPORTS.

1. All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with this chapter.

2. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order

at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

3. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 96.37 of this chapter, the results of this monitoring shall be included in the report.

96.32 REPORTS OF CHANGED CONDITIONS. Each industrial user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

1. The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

2. The Superintendent may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

96.33 REPORTS OF POTENTIAL PROBLEMS.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

2. Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the causes of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection 1 above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

96.34 REPORTS FROM USERS NOT REQUIRED TO HAVE PERMIT. All industrial users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

96.35 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING. If sampling performed by an industrial user indicates a violation, the user must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

96.36 ANALYTICAL REQUIREMENTS. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

96.37 SAMPLE COLLECTION.

1. Except as indicated in subsection 2 below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

96.38 TIMING. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

96.39 RECORD KEEPING. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Superintendent.

96.40 RIGHT OF ENTRY; INSPECTION AND SAMPLING. The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The Superintendent shall have the right to set up the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

3. The City may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to within five percent (5%) to ensure their accuracy.

4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed

by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

5. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this chapter.

96.41 SEARCH WARRANTS. If the Superintendent has been refused access to a building, structure or property or any part thereof, and if the Superintendent has demonstrated probable cause to believe that there may be a violation of this chapter or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, the Court may issue a search warrant describing therein the specific location subject to the warrant. The warrant shall conform to the requirements of the Iowa Code.

96.42 CONFIDENTIAL INFORMATION. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

96.43 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE. The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount.

2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurement taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 of all other pollutants except pH).

3. Any other discharge violation that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public.

4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of emergency authority to halt or prevent such a discharge.

5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.

7. Failure to accurately report noncompliance; or

8. Any other violations which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

96.44 NOTIFICATION OF VIOLATION. When the City finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may direct the Superintendent to serve upon that user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by

the user to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

96.45 CONSENT ORDERS. The City may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this chapter and shall be judicially enforceable.

96.46 SHOW CAUSE HEARING. The City may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

96.47 COMPLIANCE ORDERS. When the City finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

96.48 CEASE AND DESIST ORDERS. When the City finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and

2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

96.49 EMERGENCY SUSPENSIONS. The Superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless termination proceedings are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

96.50 TERMINATION OF DISCHARGE. In addition to the provisions in Section 96.26 of this chapter, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

5. Violation of the pretreatment standards of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 96.46 of this chapter why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

96.51 INJUNCTIVE RELIEF. When the City finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or completes the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

96.52 VIOLATIONS.

1. Civil Penalties.

A. A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of $1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge permit, penalties shall accrue for each day during the period of the violation.

B. The City may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

2. Criminal Prosecution.

A. A user who willfully violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor and subject to the penalty as prescribed in Section 1.14 of this Code of Ordinances per day.

B. A user who willfully introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and subject to the penalty as prescribed in Section 1.14 of this Code of Ordinances. The penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly

renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be subject to the penalty as prescribed in Section 1.14 of this Code of Ordinances per day.

D. In the event of a second conviction, a user shall be subject to the penalty as prescribed in Section 1.14 of this Code of Ordinances per day.

96.53 REMEDIES NONEXCLUSIVE. The remedies provided for in this chapter are not exclusive. The City may take any, all or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user.

96.54 LIABILITY INSURANCE. The City may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

96.55 WATER SUPPLY SEVERANCE. Whenever a user has willfully violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

96.56 UPSET.

1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection 3 are met.

3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

A. An upset occurred and the user can identify the cause of the upset;

B. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

C. The user has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

(1) A description of the indirect discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

6. Users shall control production to all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

96.57 PROHIBITED DISCHARGE STANDARDS. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 96.07(1) of this chapter or the specific prohibitions in Sections 96.07(2)(C) through 96.07(2)(G) and 96.07(2)(I) through 96.07(2)(S) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

1. A local limit exits for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass-through or interference; or

2. No local limits exists, but the discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

96.58 BYPASS.

1. Definitions. For the purposes of this section, "bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility, and "severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections 3 and 4 of this section.

3. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass, if possible. A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

4. Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime (this condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance); and

C. The user submitted notices as required under subsection 3 of this section.

The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in this subsection.

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CHAPTER 97

ON-SITE WASTEWATER SYSTEMS

97.01 When Prohibited
97.02 When Required
97.03 Compliance with Regulations
97.04 Permit Required
97.05 Discharge Restrictions
97.06 Maintenance of System
97.07 Systems Abandoned
97.08 Disposal of Septage

97.01 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])

97.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of the *Uniform Plumbing Code*, 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])

97.03 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])

97.04 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.

97.05 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])

97.06 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.

97.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal

system, 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])

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

CHAPTER 98

SEWER SERVICE CHARGES

98.01 Sewer Service Charges Required
98.02 Service Charges
98.03 Special Rates
98.04 Private Water Systems
98.05 Payment of Bills
98.06 Lien for Nonpayment
98.07 Special Agreements Permitted

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

(Code of Iowa, Sec. 384.84)

98.02 SERVICE CHARGES.

1. User Charge. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

Rates for Inside City Limits

Start Dates	Monthly Flat Service Rate	Flat Rate/100 CF	Monthly Flat Industrial Service Rate	Industrial Rate/100 CF
2/17/08	$3.00	$4.23	$300.00	$3.13
7/1/09	$3.00	$7.07	$300.00	$3.78
7/1/10	$3.00	$7.97	$300.00	$4.57

Rates for Outside City Limits

Start Dates	Monthly Flat Service Rate	Flat Rate/100 CF	Monthly Flat Industrial Service Rate	Industrial Rate/100 CF
2/17/08	$3.00	$4.70	$300.00	$3.47
7/1/09	$3.00	$7.85	$300.00	$4.20
7/1/10	$3.00	$8.85	$300.00	$5.07

"Industrial User" means "significant industrial user" and is defined in §96.04(27).

2. Surcharge. A customer who discharges any water or wastes in excess of (i) a five-day biochemical oxygen demand greater than two hundred parts per million by weight, or (ii) containing more than two hundred-forty parts per million by weight of suspended solids, or (iii) containing more than one hundred parts per million by weight of grease and oil shall, in addition to the user charge, pay a surcharge as follows:

Start Dates	BOD	SS	Grease and Oil
2/17/08	$.48/lb.	$.22/lb.	$.80/lb.
7/1/09	$.77/lb.	$.35/1b.	$1.28/lb.
7/1/10	$.86/lb.	$.39/1b.	$1.43/lb.

(Ord. 2154 – May 10 Supp.)

98.03 SPECIAL RATES. Where, in the judgment of the Superintendent, special conditions exist to the extent that the application of the sewer charges provided in Section 98.02 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)

98.04 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)

98.05 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 92.03 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

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

(Code of Iowa, Sec. 384.84)

98.07 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.

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CHAPTER 100

STORM WATER DRAINAGE UTILITY

100.01 Definitions
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100.01 DEFINITIONS. The following words have the following definitions when used in this chapter, and any resolution and order adopted pursuant hereto, unless the context requires otherwise or unless such word is expressly defined otherwise:

1. "Connection" means the physical act or process of directing or allowing the flow of storm and surface waters to the storm sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.

2. "Date of imposition" or "imposition date" means July 1 of each fiscal year or such other date designated by the Council, at which time a charge is imposed and becomes the legal obligation of the user. The obligation may include the cost of services to be provided during the billing period or for services previously provided to the same person under this chapter.

3. "Days" means calendar days unless otherwise specified.

4. "Equivalent service unit" or "ESU" means a measurement unit based on the impervious surface area of an average improved single-family dwelling lot or parcel within the City (as determined by a statistical sampling performed by the City). Except as provided in Section 100.04, one equivalent service unit shall be deemed to be 3,000 square feet of impervious surface. See Section 100.05, "Flat Rate Uses" for further clarification.

5. "Impervious surface area" means all land area that has been altered from its natural state such that it does not allow the infiltration and retention of water equivalent to that of undisturbed soil. This includes, but is not limited to: pavement, buildings, decks, parking

areas, and compacted gravel areas. Impervious surface does not include improved streets, roads and sidewalks within the public right-of-way; bike paths; railroad beds; or quarry excavation areas and temporary service roads in the excavation areas. Rather, such facilities are deemed to be a part of the public surface water drainage conveyance system or to constitute non-impervious surfaces.

6. "Improved single dwelling parcel" means a lot or parcel on which a single-family dwelling or duplex exists at any time during the same years as the imposition of the charge.

7. "Occupant" means the person residing or doing business on the property. In a family or household situation, the occupants responsible for the obligations herein imposed are the adult heads of the household, jointly and severally. In a dwelling or office sharing situation, the adult occupant legally responsible for the management or condition of the property is responsible.

8. "Owner" means the legal owner of record, as shown on the tax rolls of the County, or where there is a recorded land sale contract, the purchaser thereunder.

9. "Person," as used herein, means any individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm trust or any other legal entity whatsoever.

10. "Rule" means any written standard, directive, interpretation, policy, regulation, procedure or other provision, adopted by the Council as a Resolution and Order to carry out the provisions of this chapter.

11. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and rivers, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water comprising the total publicly owned storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.

12. "User" means any person who uses property which maintains connection to, discharges to, or otherwise receives services from the City for surface water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.02 STORM WATER UTILITY ESTABLISHED. Pursuant to the authority of Section 384.84 of the Code of Iowa, the Council hereby establishes a storm water utility in the City. The entire City, as increased from time to time, shall constitute a single storm and surface water drainage system district.

100.03 CHARGES AND FEES IN GENERAL. The Council may adopt by ordinance the charges, rates, and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City's storm and surface water system and program, and for services of the City. Except as specifically provided in this chapter, all charges and service fees shall be due and payable in advance of provision of service.

100.04 STORM WATER UTILITY USER CHARGE.

1. There is hereby established a storm water utility system user charge. This charge is imposed on every user within the City of the storm and surface water drainage system on the imposition date. The charge may be required to be paid in advance of the provision of service for the billing period. The charge due for the billing period shall be the obligation of the user of the public storm system on the imposition date, notwithstanding whether the user is the addressee of the bill.

2. The charge shall be the personal obligation of the user on the imposition date, regardless of whether that person has any ownership interest in the property. This charge shall constitute a debt due the City as of the date of imposition.

3. Any person who has paid the full amount due in advance of receiving service shall be entitled to a refund if the person ceases to be the user. The refund shall be effective on the date the property is vacated or sold and based on the number of days remaining in the billing period. The refund is waived unless a written request for refund is filed within 30 days of vacating or selling the property. The request shall include documentation reasonably deemed adequate by the Council. Notwithstanding any other provision, the new user shall be responsible for the remaining balance of the service charge, which may be billed immediately or added to the bill for the next period.

4. There shall be a rebuttable presumption that the owner of the real property, as shown in the records of the County Assessor, is the occupant.

5. The storm water utility user charge shall be imposed upon any person who uses or discharges to the public storm and surface water drainage system by:

A. Maintaining impervious surface connected to (directly or indirectly) and capable of discharge to the public surface water management systems; or

B. Actually discharging storm or surface water into the system; or

C. For which a specific request for storm and surface water management service has been made.

Said charge shall be charged for all users of properties within the boundaries of the City. A property, whether unimproved or containing impervious surface, is presumed to discharge storm water to the storm and surface water drainage system, and to generate a demand for storm and surface water drainage services, unless that property has an on-site disposal system which meets the standards of Section 100.08 of this chapter.

100.05 CALCULATION OF EQUIVALENT SERVICE UNITS AND AMOUNT OF CHARGE. This subsection shall be used to determine the number of equivalent service units (ESUs) for a property for purposes of determining the amount of storm water utility (SWU) service charges and the water quantity component of the SWU. There are two types of uses: flat rate uses and measured uses. These are defined as follows:

1. Flat Rate Uses. Improved properties that qualify under this section as flat rate uses shall be charged at the rate of one ESU per dwelling unit. The following uses shall be defined as "flat rate" uses:

A. Flat Rate Use Residence – a residential structure not attached to another residential structure on one or more parcels of land, providing there are not more than two residential structures on one parcel. Flat Rate Use Residences shall have impervious surfaces totaling no more than 6,000 square feet in area. This definition also includes trailers, mobile homes and manufactured homes, if on separate parcels. Two separate dwelling units on a single parcel shall be charged one ESU per dwelling unit. Three or more residential dwelling units on one parcel, whether attached or unattached, shall be considered a multiple family residential use, and shall be a measured use, as defined below.

B. Duplex – two dwelling units jointed to each other with a common wall, or one above the other, on one or two parcels. The

units may be under one ownership, or owned separately. Each dwelling unit of the duplex shall be charged one ESU.

C. Trailer Parks, Mobile Home Parks – includes trailers and mobile homes on a single tax lot (even if there are more than two per tax lot) under one ownership, where spaces are leased or rented for a mobile home or trailer to be placed. Each space of a trailer park or mobile home park shall be charged one ESU whether or not there is a trailer or mobile home on the space. Other impervious areas contained within the boundaries of the trailer park of mobile home park shall not be measured. The owner of a taxed lot shall be deemed the user.

D. Unimproved Parcel – a parcel of land less than 7.5 acres with no impervious surfaces or a parcel of land larger than 7.5 acres with less than ten percent (10%) of impervious surface. Unimproved parcels shall be charged 0.137 ESUs per acre.

2. Measured Uses. Properties that are not flat rate uses shall be measured uses. For such uses, the impervious surfaces of the property, as defined by rule, shall be measured. The area shall be estimated using one or more of the following: aerial photographs, assessment records, building permits, construction plans, site visits, ad valorem property tax records, storm and surface water system connection permits, field surveys or other sources deemed reliable by the City. This area shall then be divided by 3,000 square feet, the area of one equivalent service unit within the City. Fractional values shall be rounded down if below .5 and up if .5 or above. The minimum value shall be .5 ESUs. The ESUs for all of the uses in this subsection shall be determined by measuring the impervious area.

A. Multi-family Residential Use. The total charge for a multi-family residential use shall be calculated for the entire complex by measurement of the total impervious surface area, including the garages and common areas. The total ESUs shall be divided equally among all units if the units have separate water billings. If the complex is billed under one water billing, the recipient of that bill shall be deemed the user and receive the total ESU charge for the complex.

B. Commercial, Industrial, Institutional. These categories include the entire range of office, manufacturing service, sales, restaurant, day care, nursery, warehouse, churches, schools, utilities, public service buildings, parks, hospital, nursing home, rest home, retirement home, and other similar uses.

C. Measured Use Residence – a residential property with impervious surfaces total more than 6,000 square feet.

3. General Policies.

A. Condominiums. The total charge for a condominium shall be calculated for the entire complex by measurement of the total impervious surface area, including the garages and common areas. The total ESUs shall be divided equally among all units. "Units" are defined as living units and do not include supporting uses, such as garages, even though they may be on separate parcels.

B. No Limit on Charge for a Measured Use. Flat rate use residences and duplexes are not individually measured. All other uses are individually measured. If a use is a measured use, its charge shall not be limited to one ESU, even if it is residential.

C. Community Facilities. The flat rate category includes typical residential uses within a parcel or single ownership, as defined above. If a community or neighborhood recreation center or similar facility exists within a subdivision, even if associated with the single-family or duplex properties, that property shall be measured and charged separately to the user of that property.

D. Seasonal Impervious Area. Properties which have areas that are impervious for only a portion of the year shall constitute seasonal impervious areas. For example, a greenhouse that is covered six months, and open with a pervious floor for six months. If an impervious area is in place for more than one month per year, it shall be included in the impervious area measurement, unless exempted under the policy for "Spreading of Runoff to Pervious Surfaces."

E. Miscellaneous.

(1) No credits, exemptions or reductions shall be given for impervious surfaces that are submerged for a portion of the year.

(2) If impervious areas are so small they cannot be detected on aerial maps at a scale of 1" = 50', then they shall not be included in the total impervious area.

(3) A flat rate use residence (or a duplex unit) and garage, under one ownership, shall be charged one ESU (2 for a duplex), even if on two adjacent parcels.

(4) Swimming pools (not including the impervious deck around the swimming pool) are exempted from SWU fees providing the filter drains are connected to the sanitary sewer system.

(5) No waiver shall be given for small impervious areas on a large pervious property.

4. Exclusion From Impervious Surface Measurement.

A. Roads. Public roads shall not be included in the measurement of impervious surface areas. All private roads are to be included in the measurement of impervious surface areas, except private roads that serve flat rate uses (single family, duplex and trailer park properties). Private roads are defined as all roads and driveways which have not been dedicated to the public and accepted for public use, and which are defined as an impervious surface under other City rules.

B. Determination of Impervious Surfaces – Roadways. All roadways, whether dirt, gravel, or paved, shall be considered impervious, and unless a part of an exempted category of road, or a part of a flat rate use, shall be included in the impervious area measurement. A "roadway" is defined as an area intended for the purpose of providing access for motor vehicles. Motor vehicles shall include automobiles, trucks and tractors if similar or larger in size and weight to a passenger automobile. Roadways include such things as roads, streets, alleys and driveways.

C. Determination of Impervious Surfaces – Parking and Storage Areas.

(1) All parking and storage areas, whether dirt, gravel or paved, shall be deemed impervious. A parking area is defined as an area where motor vehicles are parked temporarily. This shall include such areas as public and private parking lots (regardless of frequency of use), and storage areas.

(2) A dirt or gravel area that is not accessed by motor vehicles, or is not otherwise highly compacted, shall be considered not impervious. This shall include such uses as landscaping, and gravel or dirt areas accessed only by foot traffic, or small vehicles, as defined above.

(3) A user may submit information for City review showing that the conditions of paragraph (2) of this subsection are valid. The City shall review such

information and may perform a site inspection. If, based upon objective, verifiable information presented, or upon the site inspection performed the City may modify the ESUs for the property to conform to the actual impervious surface. Failure to permit the City to perform a site inspection of the property shall be grounds to deny an application for review under this subsection.

D. Spreading of Runoff to Pervious Surfaces. Impervious areas shall be excluded from measurement and charge if the runoff is spread to a pervious area that does not otherwise receive rainfall. For properties which meet the criteria of this subsection, all or part of the impervious area may be excluded from measurement and charge, as appropriate. For such property, the following criteria shall apply:

(1) It is the responsibility of the property owner to provide documentation as required by the City to demonstrate that the criteria are met.

(2) The area of impervious area that can be exempted is limited to the area of the pervious area where the runoff is effectively spread.

(3) To qualify, the runoff from an impervious area must not be concentrated but must remain as "sheet flow," or be spread so it is in sheet flow; the runoff must pass through the pervious area before it is collected in a drain or channel system and carried away; and there cannot be any barriers such as a concrete foundation preventing the sheet flow runoff from passing through the impervious area.

E. Quarry Property. Permanent roadways, parking areas, and structures shall be included in the impervious area measurement. The actual excavated area from which material is being taken, and the temporary service roads in the excavation area shall be excluded as not be impervious.

F. Railroad Facilities. Railroad facilities shall be included in the measurement of impervious area, but the rail grade itself shall be excluded as being pervious.

5. Exemption from SWU Service Charges.

A. Users of properties for which all storm water is disposed of on-site, as defined by City standards, may request an exemption from SWU service charges. No partial exemptions for disposal of

only a portion of the storm and surface waters on-site shall be allowed. In order to qualify for a service charge exemption, the user must design, construct and maintain an on-site facility that keeps all storm and surface water for the full range of storms during the year. This applicant for exemption must pay an initial inspection/review fee. For the purpose of this section, the term "property" means a parcel of land, or a group of adjacent parcels working in cooperation. The term "on-site disposal" means on the parcel, or on another parcel in the near vicinity of the parcel requesting the exemption. In order to qualify for the exemption, the on-site system must encompass the entire property (except for incidental impervious areas as defined below), must be completely separated from the public system, and must provide adequate on-site disposal. Incidental areas such as sidewalks, decks, and driveway aprons shall not exceed ten percent (10%) of the total impervious area. On-site disposal facilities that may qualify are dry wells, injection wells, retention basins with percolation/evaporation capacity, and retention basins with capacity large enough to accommodate the total of all storms through the year. Many of these may have a possible adverse effect on ground water, and some techniques may require approval of State, Federal and local agencies.

B. To qualify, an applicant must submit a request to the City for a waiver of monthly service charges relating to the property. This request shall include a certification from an engineer, or other evidence acceptable to the City, that shows the system is separate and will dispose of the full range and volume of storm water through the year on-site. The applicant shall also submit a maintenance plan for assuring the system will function as designed. The application must be signed by the property owner. An inspection/review fee shall be paid at the time of the application. If the application is denied, the inspection/review fee will be credited to the service charges due. If the request for the waiver is made as part of the construction plans, this fee shall be waived. A decision denying an exemption may be appealed following the procedures in Section 100.09. If approved, the waiver will be effective for the next billing cycle.

C. The City retains the right to inspect the on-site measures to assure they are functioning as designed. If at any time the measures are found not to be effective, the exemption shall cease.

6. Credits for Water Quantity Portion of the SWU. New developments that provide on-site retention, disposal or detention or

provide off-site conveyance system enlargements are entitled to a credit in SWU fees. To be eligible, new development, or portions of new development, must include design and construction of a facility that meets one of the following standards:

A. Retention facility sized to accommodate the full volume of storm water through the year with no overflow or release into the SWU system. Eligible facilities shall be exempt from SWU fees.

B. A disposal facility which keeps all storm and surface water separated from the public system, and disposes of it on-site for the full range of storms during the year, including the winter, through on-site disposal (dry wells, injection wells, percolation/evaporation basins). Eligible facilities shall be exempt from SWU fees.

C. A detention facility which meets or exceeds the standards defined in City rules for on-site storm water detention facilities. Eligible facilities shall be entitled to a reduction of one-half of the actual number of ESUs calculated.

D. Upsizing (maintaining or improving) the downstream conveyance system. A credit shall be based on the following criteria and definitions:

(1) Downstream conveyance system is not a City maintained conveyance system nor within City owned property or right-of-way, and is not part of an established drainage district.

(2) Proof of upsizing, maintaining or improving shall be through either submittal of receipts for work completed, before and after dated photos, or on-site observation by authorized City representative during actual construction.

(3) Credit does not transfer with ownership of property.

(4) Drainage area upstream from subject conveyance system must include one or more landowner(s) not including the landowner applying for the credit.

(5) Conveyance system shall be defined to include waterways, creeks or streams, tile, culverts, storm sewers and ditches.

(6) The landowner applying for relief of the user fee must incur a minimum total expenditure of $1,000 every five years, or a minimum of $200 per year for the upsizing,

maintaining or improving of the subject conveyance system.

(7) Conveyance system must lie within property of landowner requesting credit.

(8) Definitions:

a. "Maintaining" means work required to restore conveyance system to original efficiency and capacity. This may include removal of obstructions, erosion control, slope restoration, sediment or siltation removal, tile or storm sewer repair.

b. "Improvements" means work required to enlarge or increase capacity of conveyance system. This is work which will reduce future flooding or overflow conditions. This may include enlargement of culvert or pipe sizes, excavation for enlargements of ditch or watercourse.

(9) Credit eligibility is null and void if applicant is in violation of any Federal, state or local law or regulation regarding alteration of drainage.

7. Service Charge. The rate for the service charge is on a fiscal year basis, the estimated storm water utility system actual costs, less other projected revenue, divided by the estimated total number of ESUs connected to the City storm water utility system. The rate of service charge shall be $1.95 per ESU. The City may prescribe by rule further detail regarding determination, calculations and classification of impervious surfaces; and for payment of a deposit not to exceed one year's estimated storm water utility service charge as a condition of connection of property to the City's system, or for continued maintenance of connection to the system. All ESU records for all properties within the City shall be kept in the Clerk's office and shall be available during normal office hours for examination.

100.06 BILLING.

1. The City shall send a bill for the amount due by regular mail to every user in the City. Mailing to the owner of record as shown in the Assessor records shall satisfy this requirement.

2. The recipient has 20 days from the billing date to file a notice of non-occupancy. The notice shall indicate the relationship of the

recipient to the property (e.g., owner, lessor, mortgagee), whether on the imposition date the property was occupied, and if so, by whom.

3. Upon receipt of the notice, the City shall determine who is obligated for payment. Based on this determination, the City shall:

A. Issue a new bill to the occupant if the property was occupied by someone other than the original recipient;

B. Reissue the bill to the recipient if it is found that the person was the occupant;

C. Issue a bill to the owner as the user, if the property was not occupied.

The City may take into account any reasonably reliable information available to it, including utility or water district records.

4. Failure to file the notice so that it is actually received by the City within the 20 days of the mailing date of the bill shall conclusively establish that the original addressee was the user on the imposition date.

5. Notwithstanding any other provision of this chapter, any person may agree in writing to be responsible for payment of the charge. Upon filing of such a writing with the City, subsequent bills shall be sent to that person and that person shall be deemed to be the user.

6. It is a violation of this chapter to knowingly provide false information to the City regarding any fact related to billing of a storm water utility service charge or other charge of the City.

100.07 DELINQUENCY, COLLECTION, INTEREST AND PENALTIES.

1. Charges imposed under this chapter are deemed delinquent when not paid in full by the due date provided in a billing for the charge. It is unlawful and a violation of this chapter for any person to discharge wastewater into the City's Storm Water Utility System.

2. It is also unlawful and a violation of this chapter to maintain a connection to or use the City's Storm Water Utility System without paying the appropriate charges and fees established herein or any rule adopted pursuant hereto. Even if no billing is received, such charges shall be due and owing and the user is obligated to pay any charges in a timely fashion.

3. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges to the premises under this chapter. 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.

4. In addition to remedies provided for collection of a debt, the City may seek a temporary or permanent injunction prohibiting continued occupancy of premises, requiring disconnection of the premises from the public storm water utility system, and termination of water and sewer service to the user's premises.

5. A penalty of one and one-half percent (1.5%), with a minimum of $.50, will be charged per month on all delinquent balances.

6. In a collection action under this chapter, the City shall be entitled to its costs and reasonable attorney fees, including at trial and on appeal, if it is the prevailing party.

7. In addition to the right of the City to bring a civil action to collect any delinquent charges or enforce any provision of this chapter, the City may take any of the following actions to secure payment:

A. The City may refuse to issue any permit to any person who is delinquent in any payment under this chapter;

B. The City may terminate provision of storm and surface water service to premises used by the user;

C. The City may terminate sanitary sewer service to premises used by the user;

D. The City may terminate water service to the premises used by the user.

Termination of service pursuant to this subsection shall be according to procedures adopted under Section 100.09. If the City terminates service as provided in this subsection, the cost of such disconnection shall be added to the amount of any other delinquent charges and shall be recoverable in the same manner as are such charges.

100.08 DISCONNECTION; RECLASSIFICATION; TERMINATION.

1. The issuance of a storm water utility system connection permit relating to impervious surface on a property or parcel shall be deemed to be a specific request for provision of storm and surface water service to that property.

2. Any user of the public storm water utility system may disconnect property served by the system from service and terminate further user charges by utilizing the procedure in this section.

3. Any user of the public storm water system may remove all or part of the impervious surface on the property served by the system and apply for use reclassification by utilizing the procedure in this section.

4. A person desiring to disconnect property from the system shall make application on a form provided by the City and pay the fee established therefor. The application shall be signed by the owner of the property and shall provide evidence of demolition or removal of any impervious surface on the property or of installation of an approved on-site storm and surface water retention or infiltration system serving the property. Such on-site system shall be designed and operated to retain or dispose of all on-site storm and surface waters generated by the property, through the full range of storm events prescribed by City rule. The Council may by rule adopt additional criteria and administrative procedures to provide for disconnection from storm water utility service and suspension or termination of user charges.

5. Upon receipt of a complete application for disconnection or reclassification, and verification of information thereon, and installation of the on-site system or demolition of impervious area as provided in subsection 3 of this section, the City shall issue a permit for disconnection or reclassification. Whether performed by the City or other person, the City shall inspect the disconnection.

6. The City may inspect the on-site system at any time. If at any time the system fails to perform to the standard specified in subsection 3 above, the City shall notify the owner to correct the system. If the system is not corrected to meet on-site retention or infiltration standards within thirty (30) days of such notice, the City may treat such deficiency as a reconnection to the storm water utility system and as a specific request for storm water utility service. Service fees shall then relate back to the earliest date on which the system failed to meet applicable performance standards for on-site retention or disposal.

7. If at any time after reclassification an impervious surface is added to the property, the City shall consider such an addition as a reconnection to the storm water utility and as a specific request for storm water utility service.

100.09 ADOPTION OF RULES; INTERPRETATIONS AND APPEALS.

1. Adoption of Rules.

A. The Council may, by Resolution and Order, promulgate rules pertaining to matters within the scope of this chapter.

B. Any rule adopted pursuant to this section shall require a public hearing. Not less than four nor more than twenty days before such hearing, public notice of such hearing shall be given by publication in a newspaper of general circulation within the City. Such notice shall include the place, time and purpose of the hearing and the location at which copies of the full text of the proposed rules may be obtained.

C. At the public hearing, the Council shall hear testimony concerning the proposed rules. At the conclusion of the public hearing, the Council shall either adopt the proposal, modify or reject it. If a modification is made, an additional public hearing shall be held but no additional notice shall be required if such additional hearing is announced at the meeting at which the modification is made. All rules shall be effective upon adoption by the Council and shall be filed in the office of the City.

D. Notwithstanding paragraphs B and C of this subsection, a rule may be adopted without prior notice upon a finding that failure of the Council to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this subsection shall be effective for a period of not longer than 180 days.

2. Appeals. The following may be appealed to the Council:

A. A determination that the person is obligated to pay the service charge imposed herein;

B. A dispute as to the proper calculation of the amount due from the person. This does not include, however, an objection to the overall establishment of the storm water utility charge or the amount per ESU established by the Council or the establishment of classes of impervious surface area.

C. A discretionary decision implementing a rule adopted by the Council if an appeal is provided in the Order adopting the rule.

3. The appeal shall be filed in writing and must be actually received by the City not later than the thirtieth day after the action appealed. The 30 days shall be calculated from the due date of the original or reissued bill in response to a notice of non-occupancy, whichever is later.

4. The appeal shall be heard by the Council in an informal proceeding. The appellant shall be provided a reasonable opportunity to submit written and oral support for the appellant's position. The Council

shall issue a written decision within 30 days of the proceeding. The written decision of the Council may be appealed to the Iowa District Court for Boone County. Failure to properly exhaust the administrative remedy provided for herein shall constitute a bar to judicial relief.

100.10 URBAN DRAINAGE DISTRICTS.

1. Drainage District Nos. 32 and 34. Drainage District Nos. 32 and 34 shall constitute an Urban Drainage District, as defined by Iowa Code Section 468.585(2).

2. Drainage District No. 172. Drainage District No. 172 shall constitute an urban drainage district as defined by Iowa Code Section 468.585(2).

3. Authorization to Establish and Collect Rates. Pursuant to Iowa Code Section 468.589, the Council is hereby conferred with the power to establish, impose, adjust and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of drainage improvements against property within said Urban Drainage Districts and to establish, impose, adjust and provide for the collection of charges for connection to drainage improvements within said Urban Drainage Districts by Ordinance of the Council.

4. Establishment of Rates. In order to promote uniformity of rates and charges between Urban Drainage District Nos. 32 and 34, Urban Drainage No. 172 and the Storm Water Utility of the City, the rates and charges upon users for connection to said Utility within the City established in this chapter are hereby imposed upon users within Urban Drainage District Nos. 32 and 34 and Urban Drainage District No. 172.

5. Lien for Nonpayment. If rates or charges imposed by subsection 4 are not paid as provided by this Code of Ordinances, they shall constitute a lien upon the premises served or benefited by the improvements and may be certified to the County Treasurer and collected in the same manner as other taxes.

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CHAPTER 105

SOLID WASTE CONTROL

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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 and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

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

1. "Collector" means any person authorized to gather solid waste from public and private places.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

13. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, 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)

14. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by 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 in accordance with applicable provisions of the *Uniform Fire Code*.[†]

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 on the premises or burned on the premises in accordance with the *Uniform Fire Code*, transported to a yard waste disposal site or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

[†] See Chapter 163 and Appendix.

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.

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 placed in containers which are not in compliance with the provisions of this section will not be collected.

5. Any property owner desiring to utilize public right-of-way for the purpose of storing a waste storage container, other than a garbage can or wheeled garbage can, must file an application with the Building Official's office at least seven (7) days prior to the date that the container will be placed on public right-of-way. The application must be accompanied by a fee, as set by resolution of the Council, which covers the period the container will remain on public right-of-way, as stated in the application. The Building Official's office shall determine if the placement is safe and if it complies with all existing regulations relating to line of sight to corners, distance from sidewalks, etc. If the Building Official's office determines that the placement is not acceptable, the Building Official or his designee shall contact the applicant to determine if an alternate location is possible. If not, then the application shall be denied and the fee returned to the applicant. The Building Official's decision is final. If the container remains on public right-of-way longer than applied for, the Building Official shall cause the container to be removed immediately. The applicant may apply for additional time for the container to remain on public right-of-way, but must be done at least two (2) business days prior to the expiration of the initial period applied for and must be accompanied by the additional fee required.

(Ord. 2146 – Sep. 09 Supp.)

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 Boone 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

106.01 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 twice each week.

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

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury:	— $100,000 per person.
	— $300,000 per occurrence.
Property Damage:	— $ 50,000.

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

3. License Fee. A license fee in the amount of twenty-five dollars ($25.00) shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the

original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. License Not Transferable. No license authorized by this chapter may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

8. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

106.08 LANDFILL FEE. The disposal of solid waste as provided by this chapter is declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a landfill fee therefor in accordance with the following:

1. Fee.

A. For each residential premises (single user water meter) – $.90 per month.

B. For each commercial premises – $2.00 per month.

C. For each industrial premises – $3.00 per month.

D. For each apartment building (multiple user water meter) – $3.00 per month.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances.

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

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Mains and Pipes; Indemnification
110.03 Excavations
110.04 Construction and Relocation
110.05 Service Requirements
110.06 Franchise Fee
110.07 Franchise Fee Billing
110.08 Franchise Fee Collection
110.09 Administrative Fees
110.10 Annexation
110.11 Indemnification
110.12 Franchise Fee Remitted to City
110.13 Modifying Fee
110.14 Use of Fees
110.15 Fee Refunds
110.16 Obligation to Collect
110.17 Exemption From Other Fees
110.18 Management Fees
110.19 Term of Franchise
110.20 Entire Agreement

110.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance[†], to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

110.02 MAINS AND PIPES; INDEMNIFICATION. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire hydrants which have been or may hereafter be placed in any street, alley and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

110.03 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, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly and as soon as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or

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[†] **EDITOR'S NOTE:** Ordinance No. 2203, adopting a natural gas franchise for the City, was passed and adopted on September 15, 2014.

adjacent to the Company project to a condition superior to its immediate previously existing condition.

110.04 CONSTRUCTION AND RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of any street or alley, or City utility, or any public improvement thereof, in or about any such street, alley or public right of way or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

110.05 SERVICE REQUIREMENTS. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 FRANCHISE FEE. In its monthly billing the Company shall include a franchise fee of one percent (1%) on the gross receipts from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City.

110.07 FRANCHISE FEE BILLING. The franchise fee shall be recovered through 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.

110.08 FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the

City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.

110.09 ADMINISTRATIVE FEES. The City recognizes that the costs of franchise fee administration are not charged directly to the City and the City and Company agree that the Company may only charge such administrative fees as are provided for in state statute.

110.10 ANNEXATION. 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.

110.11 INDEMNIFICATION. 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.

110.12 FRANCHISE FEE REMITTED TO CITY. The Company shall remit franchise fee receipts 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.

110.13 MODIFYING FEE. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to 110.06 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon

date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the city council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

110.14 USE OF FEES. 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.

110.15 FEE REFUNDS. 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.

110.16 OBLIGATION TO COLLECT. 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.

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

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

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

C. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a

continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

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

A. The imposition, collection or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State of Iowa. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

B. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

C. 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.

110.17 EXEMPTION FROM OTHER FEES. The franchise fee, pursuant to Chapter 480A.6 of the Code of Iowa, shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along and under the streets, avenues, alleys and public places in the said City for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license or rental charge during the entire term of this ordinance.

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

110.19 TERM OF FRANCHISE. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company.

110.20 ENTIRE AGREEMENT. This ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no

event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Ch. 110 - Ord. 2203 – Dec. 14 Supp.)

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Poles and Lines
111.03 Excavations
111.04 Construction and Relocation
111.05 Trees
111.06 Service Requirements
111.07 Nonexclusive
111.08 Continuous Service
111.09 Franchise Fee
111.10 Franchise Fee Billing
111.11 Franchise Fee Collection
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111.15 Franchise Fee Remitted to City
111.16 Modifying Fee
111.17 Use of Fees
111.18 Fee Refunds
111.19 Obligation to Collect
111.20 Exemption From Other Fees
111.21 Management Fees
111.22 Term of Franchise
111.23 Entire Agreement

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

111.02 POLES AND LINES. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 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, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly and as soon as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or

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[†] **EDITOR'S NOTE:** Ordinance No. 2202, adopting an electric franchise for the City, was passed and adopted on September 15, 2014.

adjacent to the Company project to a condition superior to its immediate previously existing condition.

111.04 CONSTRUCTION AND RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of any street, or City utility, or alley or any public improvement thereof, in or about any such street, alley or public right of way or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

111.05 TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

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

111.07 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly

service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

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

111.10 FRANCHISE FEE BILLING. The franchise fee shall be recovered through 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.

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

111.12 ADMINISTRATIVE FEES. The City recognizes that the costs of franchise fee administration are not charged directly to the City and the City and Company agree that the Company may only charge such administrative fees as are provided for in state statute.

111.13 ANNEXATION. 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.

111.14 INDEMNIFICATION. 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.

111.15 FRANCHISE FEE REMITTED TO CITY. The Company shall remit franchise fee receipts 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.

111.16 MODIFYING FEE. 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 111.09 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the city council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

111.17 USE OF FEES. 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.

111.18 FEE REFUNDS. 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.

111.19 OBLIGATION TO COLLECT. 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.

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

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

B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity 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

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

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

A. 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

B. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

C. 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.

111.20 EXEMPTION FROM OTHER FEES. The franchise fee, pursuant to Chapter 480A.6 of the Code of Iowa, shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this ordinance.

111.21 MANAGEMENT FEES. 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.

111.22 TERM OF FRANCHISE. The term of the franchise granted by this ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company.

111.23 ENTIRE AGREEMENT. This ordinance 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. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this ordinance, that create additional burdens upon the Company, or which delay utility operations.

(Ch. 111 - Ord. 2202 – Dec. 14 Supp.)

CHAPTER 112

CABLE TELEVISION FRANCHISE

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112.01 DEFINITIONS. The following words and phrases, when used in this chapter, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Cable service" means (i) the one-way transmission to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection of service video programming or any other lawful communication service.

2. "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;

C. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the 1992 Cable Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) to the extent such facility is

used in the transmission of video programming directly to subscribers; or

D. Any facilities of any electric utility used solely for operating its electric utility systems.

3. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a televisions channel (as television channel is defined by the FCC by regulation).

4. "FCC" means the Federal Communications Commission.

5. "Franchise" means an initial authorization or renewal thereof (including a renewal of an authorization which has been granted subject to Section 626 of the 1992 Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system for the purpose of offering cable service or other service to subscribers.

6. "Grantee" means CABLEVISION VI, INC. or any other person, corporation or other legal entity granted a franchise in accordance with the provisions of this chapter.

7. "Local gross revenues" means all revenues derived from all operations and services associated with the cable system, including revenues from advertising on all channels where advertising is sold in the Boone market. Furthermore, revenues from governmentally imposed services on subscribers and collected by the Grantee for the City will also not be included in gross revenues for purposes of calculating the franchise fee. "Additional hookup fees" are excluded from the term "governmentally imposed services." All other taxes imposed by any governmental unit shall also be excluded from gross revenues. Gross revenues include only revenues from pay television after deducting all licensing fees paid by Grantee.

8. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

9. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

10. "Subscriber connection" means the point where the cable distribution line is attached or connected to the service line to the subscriber's premises. This shall be at the outside wall of the

subscriber's premises or subscriber terminal where the subscriber's equipment is connected, not at the distribution pole or box.

112.02 FRANCHISE REQUIRED. No person shall establish and operate a cable television system within the City except upon obtaining the grant of a franchise as defined and provided for in this chapter. The person seeking a franchise shall execute a franchise agreement with the City, which agreement shall incorporate all provisions of this chapter as fully operative terms of the agreement, and including an agreement with respect to rental of the City's transmission line poles and other municipal properties.

112.03 TERMS OF FRANCHISE. The franchise and the rights, privileges, and authority thereby granted, subject to the provisions of this chapter, shall take effect and be in force from and after final approval thereof, as provided by law, and shall continue in force and effect for a term of not more than fifteen (15) years.[†]

112.04 USE OF PROPERTY. The Grantee may use public right-of-way within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable system subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental (Federal or State) laws, ordinances, rules or regulations as may now or hereafter be applicable thereto, not contrary to the 1984 Cable Act and its amendments.

2. The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

A. Impair the owner's interest in or title thereto;

B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;

C. Adversely affect the then value or character thereof;

D. Cause or be likely to cause structural damage thereto, to any part thereof;

[†] **EDITOR'S NOTE:** Ordinance No. 1754, adopting a cable television franchise for the City, was passed and adopted on May 11, 1993.

E. Cause or be likely to cause any damage or injury to any utility service available thereof;

F. Create a public or private nuisance or interfere with the safety, comfort or convenience of any owner or property, and persons lawfully on or about the same;

G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

112.05 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any service rendered by the Grantee.

112.06 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. Insurance in such amounts to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erections, operation and maintenance of any structure, equipment or appliance in connection with the cable television system. The amount of such insurance shall not be less than $100,000 as to any one person, $500,000 as to any one occurrence for injury or death to persons, and $100,000 for damages to property, with, as to Grantee, so-called umbrella coverage of at least $1,000,000. All companies used by Grantee must have a "Best's Rating" of *A*– or higher.

2. Worker's Compensation Insurance as provided by the laws of the State of Iowa as amended.

3. Automobile insurance with limits of not less than $100,000/$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than $100,000 covering all automotive equipment, with, as to Grantee, so-called umbrella coverage of at least $1,000,000.

4. All of said insurance coverage shall provide a thirty (30) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, providing Grantee can select the attorney, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

112.07 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all reasonable repairs and replacement of the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

112.08 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless, and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its cable system, including, but not limited to, reasonable attorney's fees and costs.

112.09 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person, company, or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation which owns or is wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Cablevision VI, Inc., is a general partner without prior consent of the City. No consent shall be necessary for an assignment of any rights, title or interest of Grantee in the franchise or cable system in order to secure indebtedness.

112.10 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

112.11 NOTICE OF VIOLATION; RIGHT TO CURE. In the event the City believes that the Grantee has not complied with the terms of the franchise, it shall notify Grantee in writing of the exact nature of the alleged noncompliance. Grantee shall have thirty (30) days from the receipt of notice:

1. To respond to the City contesting the assertion of non-compliance, or

2. To cure such default, or

3. In the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of steps being taken and the projected date that they will be completed.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the City to enforce prompt compliance.

112.12 ENFORCEMENT. In the event that Grantee fails to respond to the notice described in the previous section, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default, the City shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Council which is scheduled at a time which is no less than five (5) days therefrom. The City shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard. Subject to applicable Federal and State law, in the event the City, after such meeting, determines that Grantee is in default of any provision of the franchise, the City may:

1. Commence an action at law for monetary damages or seek other equitable relief;

2. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked; or

3. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

112.13 TERMINATION. In the event of termination or non-renewal of the franchise, Grantee at its own expense will remove all coaxial cable, amplifiers and any other items of equipment which may have been installed from time to time, provided, however, that in the event the Grantee is successful in concluding a sale or transfer of its system to a franchisee, Grantee shall be relieved of its obligation to perform under the terms of this section. The Grantee shall in all cases reserve the right to abandonment.

112.14 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental (Federal or State) laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and

removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system, not contrary to the 1984 Cable Act and its amendments.

112.15 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable poles is insufficient, or when holders of other public licenses or franchises have both installed under ground cable, then in that event, the cable used by the Grantee shall be installed underground.

112.16 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or other surface including any street or alley disturbed, in as good a condition as before said work was commenced.

112.17 ALTERATION OF GRADE. In the event that, during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

112.18 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than ten (10) calendar days' advance notice to arrange for such temporary cable changes.

112.19 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee and in accordance with City standards.

112.20 RELOCATION AT REQUEST OF CITY. Upon its receipt of reasonable advance notice, not to be less than ten (10) calendar days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City; however, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds also be made available to the Grantee.

112.21 LINE EXTENSIONS. Grantee shall extend its cable television system to any area within the City limits and any newly annexed areas where there are at least ten (10) subscribers within 1,320 cable bearing strand feet (one-quarter mile). However, under procedures hereinafter established, the Grantee may defer service when service would otherwise be required for those places, addresses, sites or locales of the City or unusually difficult construction conditions exist and service would be economically noncompensatory to the Grantee. In the event a deferral of service is sought, the following procedure shall be followed:

1. For those places, addresses, sites or locales for which a protestor can provide written, documented evidence showing that the Grantee's projected costs of service are unreasonably high or that projected revenues are unreasonably low, the Council shall, after notice and an opportunity for public hearing, approve or deny the deferral of service. The costs and computations showing that services to the subject areas will be noncompensatory to the Grantee and shall be on file at the Clerk's office and available for study and copying by any person on request.

2. The standard for determining if service to the place or locale proposed for deferment would be noncompensatory shall be whether the Grantee will realize a rate of return of not less than 10% after taxes as determined by dividing projected gross receipts from customer service in the locale or place, on an annual basis less expenses, by the cost of construction to the place or in the locale for which service is to be deferred.

112.22 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable service to subscriber terminals. This requirement may be temporarily suspended due to

circumstances beyond the reasonable control of the Grantee. However, whenever possible, Grantee shall give ten (10) calendar days' advance notice of any suspension of service. The Grantee shall comply with the following NCTA customer service standards at all times as minimum service standards.

1. Office and Telephone Availability. Knowledgeable, qualified company representatives will be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, Grantee will staff telephone for supplemental hours during weekdays and/or weekends.

2. Installations, Outages and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than 95% of the time measured on an annual basis.

A. Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are up to 125 feet from the existing distribution system.

B. Excluding those situations beyond the control of the cable operator, the cable operator will respond to service interruptions promptly and in no event later than twenty-four (24) hours. Other service problems will be responded to within thirty-six (36) hours during the normal work week.

C. The appointment window alternatives for installation, service calls and other installation activities will be (a) morning, (b) afternoon, or (c) all day during normal business hours. Additionally, Grantee will schedule supplemental hours during which appointments can be set.

D. If, at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time which is convenient for the customer.

3. Communications, Bills and Refunds.

A. The cable company will provide written information in each of the following areas at the time of installation and at any future time upon request:

(1) Products and services offered;

(2) Prices and service options;

(3) Installation and service policies;

(4) How to use the cable service.

B. Bills will be clear, concise and understandable.

C. Refund checks will be issued promptly if possible, but no later than the earlier of forty-five (45) days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the cable company if service is terminated.

D. Customers will be notified a minimum of thirty (30) days in advance of any rate or channel change, provided the change is within the control of the cable operator.

112.23 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems. The Grantee shall maintain signal quality in accordance with accepted industry standards throughout the duration of the franchise.

112.24 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC. The minimum signal requirements shall be the visual signal level across a terminating impedance of the cable system as viewed from the subscriber terminal and shall not be less than one millivolt across the internal impedance of 75 ohms (0 dBmv). Additionally, as measured at the end of a 100-foot cable drop that is connected to the subscriber tap, it shall not be less than 1.41 millivolts across an internal impedance of 75 ohms (3 dBmv). In layman's terms, the level at the subscriber connection should be 0 dB.

112.25 TESTING FOR COMPLIANCE. The City or a designee mutually agreeable to all parties may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee of the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than ten (10) business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such

testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing may be undertaken quarterly unless Council determines more testing is warranted to resolve a customer complaint during the year, and that the results thereof shall be made available to the Grantee upon Grantee's request. The City or a designee mutually agreeable to all parties testing the cable system will provide the name of the equipment used and evidence that the testing unit was calibrated within the last twelve (12) months by a certified calibration technician or company. Said evidence shall consist of a certification sticker or other written evidence showing the date of last calibration and the name and address of the calibration technician or company.

112.26 BOOKS AND RECORDS. The Grantee agrees that the City may review such of the Grantee's books and records evidencing compliance with the FCC testing requirements and minimum signal requirement, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The City agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that need to know, or in order to enforce the provisions hereof. The City shall give Grantee ten (10) business days to make said books and records available.

112.27 PUBLIC EDUCATION AND INFORMATION CHANNEL. The Grantee shall provide a separately designated public education and information channel, subject to applicable regulations of the Federal Communications Commission under the following format:

1. A separate designated channel to be jointly used as a public education and information channel. Access shall be on a first come, nondiscriminatory basis. The channel will be for use by the Boone Community School District and the City pursuant to the policies and directives of the Council.

2. When local broadcasting or programming reaches a level of 80% of available time (7:00 a.m. to 10:00 p.m.) during the term of the franchise, the Grantee shall at its sole cost, make available additional channel space to be used by the Boone Community School District, the City or its assignees, for the purpose of public education and information.

3. When local broadcasting and programming takes up 100% of available time (7:00 a.m. to 10:00 p.m.) on the second channel during the

rest of the term of the franchise, the Grantee shall at its sole cost, make available additional channel space on a third channel, to be used by the City or its assignees, for any purpose consistent with FCC regulations.

4. During the term of this franchise, programming on the public education and information channel shall not exceed three (3) repeatable broadcasts per week.

5. Installation for this public education and information format shall consist of modulators installed at the audio-visual department of the Boone High School and City Hall at Grantee's expense to permit direct broadcasts or programming from those two locations. The broadcast or programming can then be carried on the public education and information channel.

6. All reasonable requests for training needed to comply with this requirement shall be furnished by Grantee at no cost to the City or the Boone Community School District or their contractual designees.

112.28 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

112.29 FRANCHISE FEES. During the term of franchise, a Grantee shall pay to the City a sum of money equal to five percent (5%) of the annual local gross revenues accruing from services rendered within the City. Sales tax or other taxes levied directly on a per subscriber basis and collected by a Grantee shall not be included in computation of sums due the City. Said fees shall be paid forty-five (45) days after January 1 and July 1 of each year. Not later than the date of each payment, Grantee shall file with the Council a written statement, signed under penalty of perjury by an officer of the Grantee, which identifies in detail the sources and amounts of gross revenues received by a Grantee during the semiannual period for which payment is made.

1. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount.

2. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.

3. Any franchise fees which remain unpaid after the dates specified above shall be delinquent and shall thereafter accrue interest at the maximum legal rate until paid.

4. The Grantee shall furnish at no cost to the City a copy of the Grantee's records which reflect the gross revenues from all courses separated out into categories of program revenues, service agreements, rentals, repair revenues and advertising revenues with their semiannual payment of the franchise fees. If the City believes further inquiry is necessary, the City shall have the right to conduct a separate audit of the Grantee's records pertaining to local revenues. If a deficiency is found, the Grantee shall immediately pay over the determined amount of the deficiency and reimburse the City for any costs associated with the audit.

112.30 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

112.31 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee. This shall not be construed to prevent the subscriber from having additional hookups within the subscriber's premises as long as the hookups conform to FCC regulations. Charges, if any, for additional hookups and related charges will be negotiated by the City and Grantee at a later date and inserted herein as part of this section not in contradiction with FCC regulations. The Grantee, however, shall be granted the right of access to all subscribers' premises upon the reasonable notice of not less than three (3) days if a leakage in signal is detected and if access is denied, Grantee shall have the right to terminate service until access is granted or signal leakage is remedied to the satisfaction of Grantee. If a leakage is found, the Grantee will have the option of dictating how the leakage will be remedied. Grantee shall furnish to the City in a report every six (6) months of the addresses of where leakage problems have been discovered. The report shall be delivered with the semiannual payments of the franchise fee. If any subscriber believes that no leakage exists, he or she may request the City, its designee or someone experienced in measuring a leak in the cable signal, to also check the subscriber's premises within three (3) days of the original notice, to verify the alleged leakage. If a leakage exceeds 200 mv/u, the Grantee has the option of immediately terminating all service until the leakage is remedied. If Grantee requests access to a subscriber's premises, full disclosure of identity, purpose, and method of measurement of any suspected leakage, if applicable, shall be made prior to access being granted by subscriber. If subscriber has doubts as to the information or purpose disclosed, access may be denied until verification is made by the subscriber with Grantee.

112.32 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice and for reasonable cause at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

112.33 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

112.34 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

112.35 SUBSCRIBER RATES AND CHARGES. Grantee shall have the right, privilege, and authority to charge reasonable rates and charges to its subscribers for its services. Grantor reserves the right to regulate rates and services as provided by Federal or State law not contrary to the 1984 Cable Act and its amendments. This shall include the basic service rate as mandated by said law.

112.36 SALE OF SYSTEM. In the case of any sale or transfer of ownership of the cable system, the City shall either approve or disapprove said sale or transfer within 120 days of the request for approval. If the City fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time. This requirement shall in no way prevent the City from making an offer to purchase the cable system also.

112.37 RESERVATIONS. The right is reserved to the Council or its successor or equivalent to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power.

112.38 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

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CHAPTER 113

ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)

113.01 Franchise Granted
113.02 Indemnification
113.03 Relocation
113.04 Modern System
113.05 Pruning
113.06 Continuous Service
113.07 Non-Exclusivity
113.08 Undergrounding
113.09 Term of Agreement
113.10 Future Developments
113.11 Closing

113.01 FRANCHISE GRANTED. There is hereby granted to the Company the right and franchise to acquire, construct, erect, maintain and operate in the City of Boone, Boone County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "Facilities") along, under and upon the streets, avenues, alleys and public places in the City of Boone, Boone County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of Boone, Boone County, Iowa, 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.

113.02 INDEMNIFICATION. The facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, alleys, and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

113.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its facilities in, on, over or under any public street or alley in the City of Boone in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a

precondition to relocating its facilities. 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 alternate location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities until the reasonable cost of relocating the same are paid to the Company.

113.04 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

113.05 PRUNING. To promote public safety in proximity to its facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

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

113.07 NON-EXCLUSIVITY. The franchise granted by the ordinance codified in this chapter shall not be exclusive.

113.08 UNDERGROUNDING. The City may request estimates for the undergrounding of replacement lines, upgrades or new lines, including lines to be adjusted for road moves or for other specific projects. When requested, the Company will provide to the City two estimates: 1) An estimate for the cost of the project with overhead construction and 2) An estimate for the cost of the project with underground construction. The City will have no more than 60 days from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for the project, the City will be responsible for the incremental cost of undergrounding, defined as the differential between the estimate for underground construction and the estimate for overhead construction. Upon receipt of the City's payment for the incremental cost of undergrounding, the Company will install the underground facilities. The Company reserves the right to bill City for the amount that the incremental cost associated with installation exceeds its

estimate. The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Company to make such a request. The City shall cover all costs related to this work. If undergrounding of transmission lines requires entities interconnecting with the Company to make adjustments to their electrical systems, the City bears the responsibility of communication with those entities and, if it chooses, the cost of converting their facilities from overhead to underground. The Company reserves the right to review all of the City's communications with the affected entities.

113.09 TERM OF AGREEMENT. The term of the franchise granted by the ordinance codified in this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

113.10 FUTURE DEVELOPMENTS. The City agrees it will not permit any real estate developments or land uses in the City that would cause the Company's facilities to violate the setback or safety requirements of the National Electric Safety Code or any law, regulation or ordinance of the State of Iowa, Boone County or the City.

113.11 CLOSING. This chapter sets forth and constitutes the entire agreement between the Company and the City of Boone with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this ordinance shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this 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, that create additional burdens upon the Company, or that delay utility operations.

(Ch. 113 - Ord. 2212 – Dec. 14 Supp.)

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CHAPTER 115

LINWOOD PARK CEMETERY

115.01 Management and Control
115.02 Use of Funds
115.03 Investing of Funds
115.04 Maintenance of Potter's Field; Perpetuity Fund
115.05 Vandalism in Cemetery

115.01 MANAGEMENT AND CONTROL. The Linwood Park Cemetery is managed and controlled by the Park Commission of the City and all cemetery funds in the hands of the City shall be managed according to all guidelines established by the State or any of its departments.

115.02 USE OF FUNDS. The principal and income from any funds and all additions thereto shall be expended for the permanent care, maintenance and beautification of Linwood Park Cemetery.

115.03 INVESTING OF FUNDS. All perpetuity funds shall be invested in City bonds of the City or of the Boone Community School District or other first class securities, to be approved by the Council. The principal of said funds and all additions thereto are to be kept sacred and intact and the income only to be used under the direction of the Council for the purposes heretofore mentioned.

115.04 MAINTENANCE OF POTTER'S FIELD; PERPETUITY FUND. The City shall maintain a section designated as Potter's Field. The City shall also comply with all laws governing cemeteries and shall set aside a percentage of all lot sales as defined by State law which shall constitute a perpetuity fund and only the interest is to be used for future maintenance of the cemetery grounds.

115.05 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.

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CHAPTER 116

MUNICIPAL SWIMMING POOL

116.01 Admissions and Charges
116.02 Persons Prohibited
116.03 Showers Required
116.04 Bathing Suits Required
116.05 Prohibited Acts
116.06 Persons Permitted Within Enclosure
116.07 Vandalism
116.08 Rules and Regulations

116.01 ADMISSIONS AND CHARGES. Admission fees to and charges for rentals at the Municipal Swimming Pool shall be those from time to time fixed by the Park Commission.

116.02 PERSONS PROHIBITED. No person with open sores or diarrhea is permitted to use the pool or the bathhouse.

116.03 SHOWERS REQUIRED. All persons entering the swimming pool are required to take a cleansing shower with soap before entering the pool enclosure.

116.04 BATHING SUITS REQUIRED. All persons entering the pool shall wear approved bathing suits.

116.05 PROHIBITED ACTS. The following are prohibited at the Municipal Swimming Pool:

1. Indecent exposure of the person;
2. Use of foul or obscene language;
3. Loud, boisterous or unbecoming conduct;
4. Use of alcohol or any tobacco product;
5. Spitting or spouting water from the mouth within the pool enclosure or bathhouse;
6. Interfering in any way with the other bathers or pool employees.

116.06 PERSONS PERMITTED WITHIN ENCLOSURE. No one is permitted within the pool enclosure except patrons, employees and officials.

116.07 VANDALISM. It is unlawful to throw any sticks, stones or other articles, including waste material, into the pool or pool enclosure or to write, mark upon, deface or in any manner mar or injure any of the buildings, equipment or property in or about the swimming pool premises.

116.08 RULES AND REGULATIONS. All the rules and regulations from time to time adopted by the Park Commission for the government of the

Municipal Swimming Pool and posted in and about the premises shall be strictly observed in every particular by all persons entering the swimming pool.

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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 Investigations and Inspections
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Persons Permitted in Premises Covered by Licenses Or Permits – 50% Rule
120.07 Meeting the 50% Rule
120.08 Penalties for Violations
120.09 Outdoor Service Area Requirements
120.10 Simplified Application for Renewal

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 INVESTIGATIONS AND INSPECTIONS.

1. Upon receipt of an application for a liquor license, wine or beer permit, or a micro-distilled beer, wine or spirits permit, the Clerk shall 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 and a recommendation to the City Council as to the approval of the license or permit. It shall be the duty of the Building Official and the Fire Chief or their designees to inspect the premises to determine if they conform to the requirements of the City; and no license or permit shall be approved until or unless an approving report has been filed with the City Council by such officers or designees at least 10 days in advance of consideration by the Council.

2. As a further condition for approval by the Council, the applicant must give consent in writing on the application that members of the Fire and Police Departments and Building Inspector may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.

3. No liquor control license or beer permit shall be approved for premises which do not conform to all applicable laws, ordinances, resolutions, building codes, and health and fire regulations.

4. It shall be unlawful for any holder of a liquor license or beer permit to do business unless the premises are inspected as indicated above and a report is filed with the Council showing the place or building to conform with all the requirements fixed by law or ordinance for the preservation of public health and safety.

(Ord. 2174 – May 12 Supp.)

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

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

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

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

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales

by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

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

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

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

5. 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. ***(Repealed by Ord. 2108 – Aug. 07 Supp.)***

120.06 PERSONS PERMITTED IN PREMISES COVERED BY LICENSES OR PERMITS - 50% RULE.

1. It is unlawful for persons under the age of 21 to be in an establishment that is covered by a liquor, wine or beer permit where more than fifty percent (50%) of the gross sales is generated from the sale and dispensing of alcoholic beverages for consumption on premises. It shall be the duty of the licensee and of the person or persons managing such premises to cause to be posted and maintained at all times an easily readable notice in the English language stating that persons less than 21 years of age are prohibited from entering the premises.

2. However, the provisions of subsection 1 above shall not apply when:

A. The underage person is an employee of the license holder, or performing a contracted service with respect to said premises, and is on the premises during his or her scheduled work hours.

B. The underage person is accompanied by a parent, guardian or spouse who is of legal age for the purchase of alcoholic beverages.

C. The underage person is on the premises as a participant in a special event for a non-profit organization, or in a banquet or ceremonial dinner for any organization, in accordance with a plan approved in advance by the Chief of Police. It shall be the strict duty of a licensee permitting such underage persons onto the licensed premises, and of all persons employed with respect to said premises, to prevent underage persons from consuming or possessing alcoholic beverages of said premises.

D. The underage person is on the premises during specified posted hours that the licensee does its business primarily in food sales, in accordance with a plan approved in advance by the Chief of Police. To receive plan approval, a licensee shall be required to demonstrate that there is a clearly definable pattern of daytime hours during which more than 50% of the business sales are food. It shall be the strict duty of the licensee, and of all persons employed with respect to said premises, to prevent underage persons from consuming or possessing alcoholic beverages on said premises.

3. It is unlawful for anyone under the age of 21 to be consuming or purchasing liquor, wine or beer.

120.07 MEETING THE 50% RULE. The "50%" rule may be met by the holder of a permit or license by submitting to the Chief of Police sales records for both food and liquor, beer or wine covering a period of at least 90 days or they can devote at least 50% of their total service area to food service also, or may request a probationary period of 90 days during which they will track all sales to show that the 50% rule has been met.

120.08 PENALTIES FOR VIOLATIONS. The license or permit holder will be subject to the penalties and fines as provided in Chapter 123, Code of Iowa, which include but are not limited to suspension or revocation of their license or permit up to two years, a fine not to exceed $625 plus surcharge and costs, and/or a civil penalty not to exceed $1,000 plus costs.

(Sections 120.06, 120.07 and 120.08 added by Ord. 2108 – Aug. 07 Supp.)

120.09 OUTDOOR SERVICE AREA REQUIREMENTS. Any licensee who desires to serve alcoholic beverages and/or beer in an outdoor service area must meet the following requirements:

1. The service area must be delineated by a fence or other form of barrier that discourages the patrons from leaving the area with an alcoholic beverage or beer in their possession. The barrier must have clearly marked exits and entrances. The fence or barrier must be approved by the Police Chief and Fire Chief.

2. The service area must be contiguous to a licensed premises, if one exists, and must maintain an entrance and exit that meets all fire and building codes. The occupancy limitations for the licensee's normal premises must not be exceeded, including the outside service area. If no licensed premises exists, then the outside service area must have its own occupancy limitations determined and posted.

3. The licensee must provide a drawing of the proposed service area along with specifications as to how it will be constructed with its application and must construct all required fences and barriers according to said drawing. The Building Official, Police Department and Fire Department must inspect said area prior to commencement of service and all building, electrical and plumbing codes that apply must be met.

4. The licensee must provide all security for the outdoor service area and must include a method of policing who is and is not of legal age to consume drinks in the area. All entrances and exits must be patrolled at all times that service is being provided.

5. All outdoor service areas that have seating and tables to serve the patrons must still meet all building and fire codes. Standing will be

permitted; however, the occupancy limits for the licensed premises, in either case, must not be exceeded.

6. All regulations concerning noise and parking must also be met. No outdoor service area may be in a residentially zoned area of any type. All outdoor service areas must be in the rear of the licensed premises or in a side yard as defined in the zoning regulations.

7. These regulations do not apply to golf courses as long as the licensee's employees sell the beverages to those who are golfing on premises only and indicate all beverages must be consumed on premises.

8. All requirements of the Iowa Beer and Liquor Control Department pertaining to licenses for outdoor service must be met. See IAC §185-4.13(123).

9. An applicant may request a waiver of any of the requirements of this section by the City Council. However, any determination on a waiver request is final.

(Ord. 2132 – Sep. 08 Supp.)

120.10 SIMPLIFIED APPLICATION FOR RENEWAL.

1. An applicant may file a simplified renewal form which shall require the licensee or permitee to verify under oath that the information contained in the original application remains current, and that no reason exists for the Council's refusal to renew the license or permit as originally issued.

2. Such a renewal application must be received by the City Clerk's office at least 30 days prior to the expiration of the existing license or permit or the licensee or permittee will not be allowed to sell liquor, wine or beer during the period of time between the date the existing license expires and the date the City Council approves the application for renewal.

3. For the City Council to approve an application for renewal of a liquor license and/or wine or beer permit, all required inspections and investigations must be completed no later than 10 days prior to the City Council action of the application. It is the licensee's or permitee's obligation and responsibility to submit the renewal application in enough time to allow all inspections and investigations to be completed. This process still requires the submitting of the renewal application to the Police Chief for investigation and reporting to the Council.

(Ord. 2174 – May 12 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 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 shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four (4) 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

PAWNBROKERS

122.01 Pawnbroker Defined
122.02 License Required
122.03 Records Required
122.04 Contents of Pawn Ticket
122.05 Report to Police; Exceptions
122.06 Delay in Redemption or Sale of Pledged Article
122.07 Notice Requiring Retention of Article
122.08 Redemption Time
122.09 Trafficking With Minor or Intoxicated Persons

122.01 PAWNBROKER DEFINED. As used herein, a "pawnbroker" is any person who loans money on deposit or pledge of personal property or other valuable thing, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by a security interest or personal property, taking possession of the property or any part thereof so secured, or anyone who deals in the purchase and resale of gold, silver or precious stones, excluding jewelers.

122.02 LICENSE REQUIRED. No person shall engage in the business of a pawnbroker without first obtaining from the Clerk a license as herein provided, at a cost of twenty-five dollars ($25.00) per year.

122.03 RECORDS REQUIRED. Every person who engages in the business of a pawnbroker shall keep a book in which a record shall be made, at the time of each loan or purchase, of the following:

1. An accurate description of the goods, articles or other things pawned, pledged or purchased;

2. The amount of money loaned or paid therefor;

3. The time of the receipt of the same; and

4. The name, address and description of the person pawning, pledging or selling the same.

Entries shall be clearly written in ink in the English language, and such book, as well as the articles pawned or purchased, shall at all reasonable times be open to the inspection of any member of the police force.

122.04 CONTENTS OF PAWN TICKET. Every such pawnbroker purchasing or receiving on deposit for a loan any article or personal property shall give to the person selling or depositing such article or personal property a plain written or printed ticket or receipt for the article or property so sold or deposited, showing the terms of such sale or loan and a copy of the entries in the book referred to in Section 122.03 relating to such sale or loan.

122.05 REPORT TO POLICE; EXCEPTIONS. It is the duty of every pawnbroker to make for the Police Chief, on a twice weekly basis, a legible and correct copy of the daily reports from the book required in Section 122.03 of all personal property or other valuable things received or deposited or purchased, together with the time received or purchased, the names and a general description of the person by whom left and pledged, or from whom the same was purchased; provided, however, no person shall be required to furnish a description of any property purchased from merchants, manufacturers or wholesale dealers having an established place of business.

122.06 DELAY IN REDEMPTION OR SALE OF PLEDGED ARTICLE. No personal property received on deposit by any pawnbroker shall be permitted to be redeemed from the place of business of the pawnbroker for a period of forty-eight (48) hours after the delivery to the Police Chief of the copy and a statement relating thereto as required by Section 122.05 above, and no personal property purchased by such pawnbroker shall be sold or disposed of in any way within a period of forty-eight (48) hours after the delivery to the Police Chief a copy of the statement relating thereto as required by Section 9.74.050. However, an item may be redeemed after notifying the ranking officer on duty of the make and serial number if available, and receiving a clearance that the item was not stolen.

122.07 NOTICE REQUIRING RETENTION OF ARTICLE. The Police Chief may, for good and sufficient cause, require any pawnbroker, by notice duly served, to retain in his or her possession any article purchased or received on pledge and not to sell or permit the redemption of such article for a reasonable time stated in the notice or until further notice.

122.08 REDEMPTION TIME. Any person pledging an article shall have thirty (30) days to redeem the same before the pledge becomes forfeitable or unless otherwise stipulated on the pawn contract or ticket.

122.09 TRAFFICKING WITH MINOR OR INTOXICATED PERSONS. No pawnbroker shall purchase any goods, wares, merchandise, article or thing from a minor or intoxicated person; however, pawnbrokers may purchase goods, wares, merchandise, articles or things from minors, provided that the minor has a signed document from his or her parent or guardian consenting to said transaction.

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CHAPTER 123

HOUSE MOVING

123.01 Definition
123.02 License or Permit Requirement
123.03 License Application
123.04 Bond Required
123.05 Insurance Required
123.06 License Issuance
123.07 License Fee; Nontransferable
123.08 Permit Required
123.09 Permit Application
123.10 Compliance With City Codes
123.11 Restrictions
123.12 License Not Required
123.13 Moving Over Railway Tracks
123.14 Removal of Wires And Cables
123.15 Issuance Of Permit
123.16 License Revocation
123.17 Planking Streets
123.18 Permit Fee

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

1. The term "house mover," as used in this chapter, means a person that has been issued a valid license to move structures.

2. The term "structure," as used in this chapter, means any house, building or other structure eight (8) feet or more in width which is to be moved from one location to another upon, along, across, over, or near any street, avenue, alley, highway, sidewalk, or other public grounds of the City.

123.02 LICENSE OR PERMIT REQUIREMENT. No person shall engage in the business of moving structures within the City, or haul or transport any structure upon, across, or over any street, avenue, alley, highway, sidewalk, or public ground of the City, or raise, lower, or move any structure within twenty (20) feet of any public sidewalk without first obtaining a license and/or permit therefor as provided in this chapter.

123.03 LICENSE APPLICATION. Any person intending to carry on the business of house mover in the City shall file in the office of the Mayor an application in writing upon forms furnished by the City, and among other things, such application shall state:

1. The name and address of the applicant;

2. The foreman or other person who will have charge of work done, and his or her qualifications, experience, and knowledge of the provisions of the City ordinances relating thereto;

The applicant agrees to reimburse the City or others for all costs incurred in the moving of structures under the provisions of the license and permit issued therefor.

123.04 BOND REQUIRED. The applicant must, before the license is issued, file with the Clerk a corporate surety bond executed to the City in the amount of two thousand dollars ($2,000.00) with sureties approved by the Clerk, conditioned that all work done under such license shall be done in a good, workmanlike manner and in accordance with the ordinances of the City relating thereto and that the applicant or surety will pay to the City or any person injured all damages for injuries to persons or property caused by the negligence, fault, or mismanagement of said applicant or other person in the applicant's employ, or due to any other cause in doing any work under said license or any permit issued for such work, and will pay to the City any cost or expense incurred in repairing or restoring any pavement, curbs, sidewalks, electric facilities or other public works injured and of restoring such works to their previous condition.

123.05 INSURANCE REQUIRED. The applicant must, before a license is issued, file with the Clerk a certificate or affidavit executed by representatives of duly qualified insurance companies evidencing that said insurance companies have issued liability and property damage insurance policies covering all operations of the house mover or any other person employed by the house mover in house moving operations, and protecting the public and any person from injuries or damages sustained by reason of carrying on the work of house moving by the house mover. The certificate or affidavit shall specifically evidence the following amount of insurance coverage which shall remain in effect for the term of the license. The certificate shall provide that notice will be given the City thirty (30) days prior to any change in the conditions of the policy or any expiration or cancellation thereof.

1. Public liability insurance, $25,000.00 per person, $50,000.00 per accident;

2. Motor vehicle bodily injury liability, $25,000.00 per person, $50,000.00 per accident;

3. Property damage, $10,000.00 per accident.

123.06 LICENSE ISSUANCE. Upon approval of the application for a license, the filing and approval of the bond and certificate of insurance, and the payment of the license fee, the Clerk shall issue a license to the applicant as a house mover.

123.07 LICENSE FEE; NONTRANSFERABLE. The fee for a license as a house mover is ten dollars ($10.00) and the license shall expire on the first day of January next ensuing after issuance therefor. The license shall not be transferable.

123.08 PERMIT REQUIRED. No person shall move any structure upon, across, or over any street, avenue, alley, highway, sidewalk, or public ground of the City or raise, lower, or move any structure within twenty (20) feet of any public sidewalk without first obtaining a permit therefor from the Mayor as provided in this chapter.

123.09 PERMIT APPLICATION. All applications for a permit as required in this chapter shall be in writing on forms furnished by the City, filed in the office of the Mayor, and, among other things, shall state:

1. The name and license number of the house mover;

2. The present and proposed location of the structure to be moved together with the name and address of the owner thereof;

3. The building permit number as issued for the structure in the proposed location;

4. A description of the structure to be moved, with the size, maximum height when loaded and ready to be moved, and

5. The maximum width of the structure in the direction of travel;

6. The route over which the structure is to be moved;

7. The day and hour of the day when the structure will first be moved into the limits of the public way and the approximate length of time the structure will be within said limits;

8. Whether any and what electric lines, telephone or telegraph wires, cables, or guys will have to be cut or moved and the locations thereof;

9. What railway tracks, if any, will be crossed, their location and the day and approximate hour when such crossing will be made;

10. Whether any street structures will be removed or interfered with, including sidewalks, curbing, fire hydrants, and street signs and signals;

11. What electric power, telephone, or telegraph poles, including guys, will require removal or will be interfered with during the progress of the work and the location thereof;

12. What shade trees, if any, will require trimming, the location of the property and name of property owners thereof and whether consent for such trimming has been obtained from such owners;

13. A description of the type of moving equipment to be used;

Said application shall also state that all work will be done in strict accordance with the provisions of this chapter and under the direction and supervision of the Mayor.

123.10 COMPLIANCE WITH CITY CODES. No moving permit shall be issued unless the structure, if moved to a new location in the City, will comply with the zoning and building codes and all other ordinances of the City.

123.11 RESTRICTIONS. No moving permits shall be issued to move any structure over the paved streets, avenues or highways of the City when the maximum width of such structure in the direction of travel occupies more than two (2) feet less than the total width of paving between curbs. No structure shall be allowed to obstruct the free passage of any street, avenue or highway for a greater length of time than set forth in the permit issued therefor; except in case of unavoidable delay and through no fault or negligence on the part of the permit holder, the Mayor may grant such extension of time as is reasonable.

123.12 LICENSE NOT REQUIRED. The Clerk, upon approval of the Mayor, may issue moving permits for structures to persons, whether licensed or not, when the maximum width of such structure along the line of travel does not exceed fourteen (14) feet and when in the judgment of the Clerk they may be moved by rubber-tired vehicles or trucks in such a manner as will not substantially interfere with traffic, damage any street structure or trees, require the removal of any electric, telephone or telegraph wires, or damage any street pavements or sidewalks. Before issuing such a permit the Mayor shall designate the route to be followed and the date and time when such moving shall take place, and shall supervise the operation of moving thereof.

123.13 MOVING OVER RAILWAY TRACKS. No permit shall be issued for the moving of any structure across the tracks of any railway or street railway until the mover thereof has given the superintendent of such railway or street railway companies not less than twenty-four hours' notice before such crossing of the tracks is to be made, and satisfactory arrangements for such crossing have been made and the Mayor advised in detail of such arrangements.

123.14 REMOVAL OF WIRES AND CABLES. No permit shall be issued for the moving of any structure which requires the removal of electric, telephone, or telegraph wires or cables until not less than twenty-four hours' notice has been given of the time and place such removal is desired, the consent of the electric department of the City and/or the telephone or telegraph company has been secured for such removal, and the Mayor advised of such satisfactory arrangements.

123.15 ISSUANCE OF PERMIT. When an application has been made for a moving permit as provided in Section 123.09, and is approved by the Mayor, upon payment of the permit fee by the house mover, the Clerk shall issue to the applicant a permit. Such permit shall contain the name and address of the person to whom issued, the time of starting and completing the moving

operation within public ways, and such regulations, conditions, and instructions as the Mayor deems necessary to protect public and private property and secure compliance with the provisions of this chapter. Such permit shall not take effect and the work shall not be commenced until the time therein stated and shall at all times be under the supervision and control of the Mayor.

123.16 LICENSE REVOCATION. Any licensed house mover who in any application for a permit makes any untrue or false statements or who is guilty of violation of this chapter or who is guilty of acts of negligence in the conduct of business shall upon such finding have his or her license revoked by the Council.

123.17 PLANKING STREETS. When in the judgment of the Mayor it is necessary to protect streets or street improvements, the Mayor may require the house mover to properly and adequately plank such streets and all rollers, trucks or other devices used to convey and move same shall run upon and rest upon such planks at all times.

123.18 PERMIT FEE. The fees to be paid for moving any structures on, across or along any street, avenue, alley or highway in the City are as follows:

1. Thirty dollars ($30.00) for the first day fixed by the permit;

2. Twenty dollars ($20.00) for each day after the first day fixed by the permit;

3. Twenty dollars ($20.00) for each additional day granted in case an extension of time is granted beyond the time fixed by the permit;

4. Ten dollars ($10.00) for a permit issued under the provisions of Section 123.12.

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CHAPTER 124

HOTEL AND MOTEL TAX

124.01 Tax Imposed
124.02 Exemptions
124.03 Use of Tax Revenue
124.04 Administration

124.01 TAX IMPOSED. There is hereby imposed a tax at the rate of seven percent (7%) upon the sales price from the renting of any and all sleeping rooms, apartments or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. "Renting" and "rent" include any kind of direct or indirect charge for such sleeping rooms, apartments, or sleeping quarters, or their use.

124.02 EXEMPTIONS. The tax does not apply to the sales price from:

1. The renting of sleeping rooms in dormitories at any college located within the City limits,

2. Guests of a religious institution if the property is exempt under Section 427.1 of the Code of Iowa and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally; and

3. The renting of a room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

124.03 USE OF TAX REVENUE. The revenue derived from any hotel and motel tax shall be credited to the General Fund of the City, subject to the following:

1. At least fifty percent (50%) of the revenue derived therefrom shall be used for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including, but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the City for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.

2. The remaining revenues may be spent by the City for any City operation authorized by law as a proper purpose for the expenditures within statutory limitations of City revenues derived from ad valorem taxes including but not limited to economic development and property tax relief.

3. The City may pledge, irrevocably, an amount of the revenues derived therefrom, for each of the years the bonds remain outstanding, to the payment of bonds which the City may issue for one or more of the purposes set forth in subsection 1 of this section. Any revenue pledged to the payment of such bonds may be credited to the spending requirement of subsection 1 of this section.

124.04 ADMINISTRATION. The administration for the imposition and collection of the tax herein established shall be provided by State Director of Revenue as provided for by the laws of the State of Iowa and the administrative rules of the State Department of Revenue. No additional tax permits or procedures will be required by the City on those subject to the tax.

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CHAPTER 125

JUNKYARDS AND SALVAGE YARDS

125.01 Definitions
125.02 License Required; Fee
125.03 Location Restrictions
125.04 Premises Restrictions
125.05 Inspections; Access To Premises
125.06 Suspension or Revocation of License
125.07 Stolen Property
125.08 State Law Compliance

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

1. "Junk" means scrap metals, scrap materials, dismantled or partially dismantled machinery or vehicles, appliances, old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, iron, steel or other old or scrap ferrous or nonferrous material, or parts of machinery, vehicles, or appliances.

2. "Junkyard" means an establishment or place of business which is maintained, operated or used primarily for storing, keeping, buying, or selling junk.

3. "Salvage yard" means an establishment or place of business including a junkyard which specializes in the scrapping, dismantling or storage of wrecked or damaged vehicles or machinery or the selling of scrapped, dismantled or stored vehicles or machinery and the reusable parts thereof.

125.02 LICENSE REQUIRED; FEE. It is unlawful for any person to keep, maintain, operate or use any building, lot, parcel of land or other place as a junkyard or salvage yard without first securing a license therefor. A fee of one hundred dollars ($100.00) shall be charged for the initial licensing and inspection fee. An annual fee of fifty dollars ($50.00) shall be charged thereafter. Any person intending on operating a junkyard or salvage yard in the City limits shall first submit to the Building Official a site plan for the operation and a detailed description of what activities will be carried on from the location, all the names and addresses of all persons and owners, stockholders and officers of the firm or corporation wishing to operate the junkyard or salvage yard, and the type of junk or salvage to be handled from this location. Under no circumstances will hazardous materials or wastes be allowed to be handled from any junkyard or salvage yard in the City limits. Said site plans and operating statements shall be approved by the Building Official and Council prior to commencing operation as a junkyard or salvage yard.

125.03 LOCATION RESTRICTIONS. A junkyard or salvage yard shall not be permitted in any location except that zoned "commercial" or "industrial"

and shall be further subject to restrictions as contained in the Zoning Ordinance governing "commercial" or "industrial" districts. In the event the said "commercial" or "industrial" district abuts a "residentially" zoned district, no junkyard or salvage yard may be located within three hundred (300) feet of any residence or multiple residence.

125.04 PREMISES RESTRICTIONS. Any premises, area or piece or parcel of land being operated as a junkyard or salvage yard shall have not more than two entrances and two exits, each of which shall not exceed fifteen (15) feet in width, at the perimeter of the premises. Such premises, areas, pieces or parcels of land shall be entirely enclosed with either a solid non-transparent wall or fence or a combination thereof with a minimum height of ten (10) feet from the ground level, except the entrances or exits may be no higher than eight (8) feet from the ground level. The fence or wall shall not contain any sign exceeding one hundred (100) square feet in size.

125.05 INSPECTIONS; ACCESS TO PREMISES. The Building Official shall be allowed access to all premises, areas, pieces or parcels of land used in or in conjunction with the operation of the junkyard or salvage yard during normal business hours for the purpose of inspections to determine compliance with any or all provisions of any law or ordinance. Any refusal of access or actions taken to prohibit access shall be grounds for the immediate suspension of the license and shall constitute a violation of this chapter and result in the prosecution of a violation of a civil infraction or simple misdemeanor.

125.06 SUSPENSION OR REVOCATION OF LICENSE. Upon conviction of a violation of any law or ordinance, the license of the junkyard or salvage yard may be suspended or revoked by the Council upon a hearing held pursuant to notice and an opportunity to be heard. If any junkyard or salvage yard is found to be in violation of any law or ordinance pertaining to premises restrictions or location restrictions, the junkyard or salvage yard shall constitute a nuisance and the City may apply for an injunction or other remedy to abate the nuisance arising from said violation.

125.07 STOLEN PROPERTY. Any operator of a junkyard or salvage yard found to be in possession of any goods, articles, vehicles or things which may have been stolen shall, upon demand, release said goods, articles, vehicles or things and provide information as to the person they were purchased or obtained from to any member of any law enforcement department or agency. A failure to comply will result in the immediate suspension of the junkyard's or salvage yard's license.

125.08 STATE LAW COMPLIANCE. All junkyards and salvage yards shall, in addition to the aforementioned regulations, comply with all State regulations as now exist or may exist in the future.

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CHAPTER 126

PLUMBER LICENSES

126.01 Definitions
126.02 License Required
126.03 Plumbing Contractor's License
126.04 Plumbing Contractor Qualifications
126.05 Journeyman Plumber Qualifications
126.06 Restrictions on Employment of Apprentices
126.07 Plumbers' Examining Board
126.08 Powers and Duties of Board of Examiners
126.09 Applications For Examinations
126.10 Examination Fee
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126.12 Reexamination
126.13 License or Permit Fees and Expiration Dates
126.14 Examination Waived
126.15 License Revocation or Suspension
126.16 Summary Suspension
126.17 Appeal
126.18 Transfer of License
126.19 License Renewal
126.20 Licensed Plumber Required

126.01 DEFINITIONS. For use within this chapter, the following terms are defined:

1. "Journeyman plumber" means a person who has the necessary qualifications, training, experience and technical knowledge to do plumbing work in accordance with the standard rules and regulations governing such work under this chapter.

2. "Licensed" means licensed under this chapter unless otherwise specified.

3. "Plumbing" means the business, trade or work having to do with the installation, removal, alteration, repairs, renewals, replacements, connections and maintenance of all piping, fixtures and equipment.

4. "Plumbing contractor" (master plumber) means any person, firm, corporation, partnership, association or combination thereof, who undertakes or offers to undertake to plan for, lay out, supervise and do plumbing work for a fixed sum, price, fee, percentage or other compensation.

5. "Restricted plumber" means a person that has the necessary qualifications, training, experience and technical knowledge to do plumbing work in accordance with the standard rules and regulations governing such work, but is only permitted to do service, repair, installations, and make connections to existing plumbing, the type of appliances or equipment which said person or his or her employer sells or services.

126.02 LICENSE REQUIRED. No person shall engage in doing plumbing work unless licensed as a plumbing contractor (master plumber) or journeyman plumber, except as provided in this section. Plumbing contractors (master plumbers) shall employ for plumbing work journeyman plumbers licensed under this chapter.

1. Restricted Plumbers. Any person regularly employed as an appliance dealer or installer or said person's employee performing such service shall be qualified by the board of examiners and be licensed as a restricted plumber. Any person so licensed shall work only on the type of appliance or equipment which said person or employer sells or services.

2. Homeowners. The owner of a single-family dwelling (or mobile home), including the usual accessory buildings and quarters used exclusively for living purposes, may do plumbing work to the satisfaction of the Plumbing Inspector, provided that the dwelling (or mobile home) will be occupied by the owner and that a permit is issued and an inspection obtained as provided in this chapter.

126.03 PLUMBING CONTRACTOR'S LICENSE. No person shall engage in plumbing contracting within the City unless such person has obtained from the City a plumbing contractor's (master plumber's) license. No license shall be issued until such licensee has filed with the Clerk proof of insurance with the following limits:

General Liability	$500,000.00
Personal Injury	$500,000.00/person
	$1,000,000.00/accident
Property Damage	$100,000.00

Said policy shall hold harmless the City or have the City as a named insured, for any liability or damage arising from the licensee's failure to comply with the current Plumbing Code requirements.

126.04 PLUMBING CONTRACTOR QUALIFICATIONS. A plumbing contractor (master plumber) shall have a general practical knowledge of the purpose and method of construction or plumbing work, be competent to plan and supervise the installation of plumbing and shall be required to have some knowledge of mechanical drawings and pass satisfactorily an examination for a plumbing contractor's (master plumber's) license.

126.05 JOURNEYMAN PLUMBER QUALIFICATIONS. A journeyman plumber must be able to read blueprints and must be acquainted with the City Plumbing Code (*Uniform Plumbing Code*). He or she shall have at least three (3) years of practical experience assisting in the installation of plumbing work and shall furnish the examination board with bona fide information of such practical experience and satisfactorily pass an examination for a license as a journeyman plumber

126.06 RESTRICTIONS ON EMPLOYMENT OF APPRENTICES. No plumbing contractor (master plumber) shall hire or employ any apprentice who is not registered with the City plumbing inspection department as such, nor shall any plumbing contractor employ more than one apprentice for each journeyman plumber in his or her employ. At no time shall any apprentice perform any plumbing work unless he or she is actually in the presence of and with a fully licensed journeyman plumber. Every apprentice plumber shall at the time of starting to work as an apprentice, register his or her name and address with the City plumbing inspection department (Building Official).

126.07 PLUMBERS' EXAMINING BOARD.

1. There is created a Board of Plumbing Examiners. The board shall consist of four (4) members. All members of the examining board shall be residents of the City. The Building Official shall be a member, one member shall be a licensed journeyman plumber, one member shall be a licensed plumbing contractor, and one member shall not be connected with the plumbing industry. The Council shall appoint the latter three members. The Building Official shall serve as Secretary to the board and keep minutes and records of all proceedings and shall record the names and addresses of all persons examined by the board, the result of the examination, and the kind of license issued to each, if any, and the date thereof.

2. The term of each member other than the Building Official shall be two (2) years. The original appointments to the examining board shall be made as follows: one member shall be appointed to serve for a period of one year and one member shall be appointed to serve for two years.

3. The Council shall provide suitable space in which the examining board may hold its meetings, and all necessary equipment and facilities for holding examinations. The Council shall pay the expense of these examinations.

4. Two members of the examining board shall constitute a quorum for the transaction of business, but final action of the board shall require a majority vote of all of its members.

5. Members of the board of examiners shall receive compensation of ten dollars ($10.00) each per examination, except such member who may be an employee of the City on a regular salary, who shall be paid on his or her regular hourly basis for such time as is actually spent conducting such examinations.

126.08 POWERS AND DUTIES OF BOARD OF EXAMINERS. The examination board shall meet the last Tuesday of the month to review applications, and/or conduct the examination of applicants for licenses. The examining board shall have the power and right to hear all complaints on decisions of the plumbing inspector (Building Official). Appeals from such decisions may be taken to the board of examiners for final decision.

126.09 APPLICATIONS FOR EXAMINATIONS. Any person who desires to be licensed as a plumbing contractor (master plumber), journeyman plumber or restricted plumber shall make application to the Building Official for an examination. The Building Official shall provide application forms for this purpose. The completed forms shall include the applicant's name, home address, business address, and a brief resume of training and experience.

126.10 EXAMINATION FEE. Every person who takes an examination for a license first shall pay a fee of thirty dollars ($30.00), plus any additional fee for the Experior exam. Examination fees shall be turned over to the Clerk and the receipt number therefor shall be entered on the application for a license.

126.11 NATURE OF EXAMINATION. The examination shall be practical, written or oral, or a combination thereof, and shall be of such nature as to test the capabilities of all applicants for the same type of license uniformly. The applicant shall clearly demonstrate to the board qualifications for the particular license as set out in this chapter, and show satisfactory knowledge of the methods and standards for doing work under the Plumbing Code of the City.

126.12 REEXAMINATION. If an applicant fails to pass an examination, the applicant may apply for reexamination at the next regularly scheduled examination date and upon payment of another examination fee of thirty dollars ($30.00), plus any applicable Experior exam fees.

126.13 LICENSE OR PERMIT FEES AND EXPIRATION DATES. Before a license is issued, the applicant shall pay a license fee. All licenses shall expire on December 31 and shall be renewed biennially upon application of the licensee and payment of the fee. Any license not renewed prior to December 31 shall expire on December 31 and may not be renewed without examination, except on recommendation of the examining board. License fees shall be charged according to the following schedule:

Plumbing contractor fee .....$ 80.00 (including journeyman fee)
Journeyman plumber fee .....$ 30.00
Restricted plumber fee.....$ 10.00
Inactive fee .....$ 20.00 (contractor and/or journeyman; no proof of insurance required)

126.14 EXAMINATION WAIVED. Any plumbing contractor or journeyman plumber who comes to the City from another city or town that has similar licensing standards and who produces credentials showing proper accreditation as a plumbing contractor or journeyman plumber can be excused from the examination required under this chapter, and a license can be issued to said person upon payment of the required fee, if the board approves said person's credentials.

126.15 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the examining board may revoke or suspend any license issued under this chapter. Except as provided in Section 126.16, no license revocation or suspension shall be lawful unless the following requirements have been satisfied:

1. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to Code provisions allegedly violated and specifications of the time, place and nature of the hearing.

2. The examining board shall conduct a public hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or an authorized representative fail to appear without good cause, the Council may proceed, in the licensee's absence, to a determination of the issues.

3. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf and to cross-examine adverse witnesses.

4. The examining board shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of the City Plumbing Code.

126.16 SUMMARY SUSPENSION. If the examining board finds that the public health or safety requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending Section 126.15 suspension or revocation proceedings. Immediately

upon issuance of an order of summary suspension, the examining board shall institute proceedings pursuant to the requirements of Section 126.15.

126.17 APPEAL. In the event any person shall feel aggrieved by any action of the examining board, such person may appeal from such action to the Council by filing written notice of appeal within ten (10) days from the date of the action. The Council shall give the appealing party and the examining board five days' written notice by certified mail of the date, time and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council may affirm, modify or overrule the action of the examining board. Action taken by the examining board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record.

126.18 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

126.19 LICENSE RENEWAL. Renewals of licenses shall be issued upon application and payment of fees to the Clerk. Renewal fees are: sixty dollars ($60.00) for a plumbing contractor's (master plumber's) license and twenty dollars ($20.00) for a journeyman plumber's license. Each such application for a renewal shall be made on or before December 31 of every other year. Any person failing to make application for a renewal shall be subject to a new examination and shall pay another examination fee of thirty dollars ($30.00) plus any applicable Experior exam fees. Licenses shall not be transferable and shall expire on December 31 of every other year.

126.20 LICENSED PLUMBER REQUIRED. No person, firm or corporation shall employ any person to engage in the construction, reconstruction, alteration or repair of any plumbing or house drainage system or water or sewer system in or for any building or mobile home in the City unless such person has obtained a plumbing contractor's (master plumber's) license.

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CHAPTER 127

ELECTRICIAN LICENSES

127.01 Definitions
127.02 Electrical Contractor's License
127.03 Electrical Contractor Qualifications
127.04 Journeyman Electrician Qualifications
127.05 License Required
127.06 Electricians' Examining Board
127.07 Powers and Duties of Board of Examiners
127.08 Applications for Examinations
127.09 Examination Fee
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127.11 License or Permit Fees and Expiration Dates
127.12 Examination Waived
127.13 License Revocation or Suspension
127.14 Summary Suspension
127.15 Appeal
127.16 Transfer of License
127.17 Exemptions

127.01 DEFINITIONS. For use within this chapter the following terms are defined:

1. "Electrical contractor" (master electrician) means any person, firm, corporation, partnership, association or combination thereof, who undertakes or offers to undertake to plan for, lay out, supervise and do electrical work for a fixed sum, price, fee, percentage or other compensation.

2. "Electrical equipment" means all electrical material, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

3. "Electrical work" means installation, alterations, repairs, removals, renewals, replacements, distribution, connections, disconnections and maintenance of all electrical equipment.

4. "Journeyman electrician" means a person who has the necessary qualifications, training, experience, and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work.

5. "Licensed" means licensed under this chapter unless otherwise specified.

6. "Maintenance electrician" means a person who has the necessary qualifications, training, experience and technical knowledge to maintain and keep in a good state of repair all existing electrical equipment within a building or plant.

7. "Restricted electrician" means a person that has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work, but is only permitted to do service, repair, control work on residential and commercial installations, and make electrical connections from power panel on residential installations only to the

type of appliances or equipment which said person or his or her employer sells or services.

127.02 ELECTRICAL CONTRACTOR'S LICENSE. No person shall engage in electrical contracting within the City unless such has obtained from the City an electrical contractor's (master electrician's) license. No license shall be issued to an electrical contractor (master electrician) until such licensee has filed with the Clerk proof of insurance with the following limits:

General Liability $500,000.00
Personal Injury $500,000.00/person
..... $1,000,000.00/accident
Property Damage $100,000.00

Said policy shall hold harmless the City or have the City as a named insured for any liability or damage arising from the licensee's failure to comply with the current Electrical Code requirements.

127.03 ELECTRICAL CONTRACTOR QUALIFICATIONS. An electrical contractor (master electrician) shall have a general practical knowledge of the purpose and method of electrical work; be competent to plan and supervise the installation of electrical work; shall be required to have some knowledge of mechanical drawings; shall have served at least two years as a licensed journeyman electrician; and shall pass satisfactorily an examination for an electrical contractor's (master electrician's) license.

127.04 JOURNEYMAN ELECTRICIAN QUALIFICATIONS. A journeyman electrician must be able to read blueprints and must be acquainted with the City electrical code (*National Electrical Code*) and shall have at least 8,000 hours of practical experience assisting in electrical work. He or she shall furnish the examination board with bona fide information of such practical experience and satisfactorily pass an examination for a license as a journeyman electrician.

127.05 LICENSE REQUIRED. No person shall engage in doing electrical work unless licensed as an electrical contractor (master electrician) or journeyman electrician except as provided in the following subsections. Electrical contractors (master electricians) shall employ, for electrical work, journeyman electricians licensed under this chapter.

1. Restricted Electrician. Any person regularly employed as an appliance dealer or installer, or such person's employee performing such service, shall be qualified by the board of examiners and be licensed as a restricted electrician. Any person so licensed shall work only on the type

of appliance or equipment which such person or his or her employer sells or services.

2. Maintenance Electrician. Any person regularly employed by an individual, corporation, firm or other association to supervise the maintenance, installation and repair of electrical equipment in a manufacturing, industrial or commercial establishment shall obtain a maintenance permit if the electrician's examining board finds such person to be qualified. The permit shall authorize such person to do electrical work solely for the establishment. Any person performing electrical work under the direct supervision of a maintenance electrician shall be certified to the electrical inspector by said maintenance electrician as being qualified for such work and shall be registered with the City, all such work being confined to such establishment.

3. Apprentices and Helpers. Apprentices and helpers employed to assist a licensed electrician need not be licensed; provided, however, such apprentices and helpers shall perform their work directly under the supervision of a licensed electrician, and be registered with the City electrical inspection department at the time of starting work as apprentices. No electrical contractor (master electrician) shall hire or employ more than one apprentice for each journeyman electrician in his or her employ and at no time shall any apprentice perform any electrical work unless he or she is actually in the presence of and with a fully licensed journeyman electrician. The maximum length of time an apprentice can work before he or she is required to take an examination for journeyman electrician is no more than four years. Upon failure of the examination, an apprentice is allowed to take the examination two more times, sixty days apart. If an apprentice does not satisfactorily pass an examination for journeyman electrician in such time, he or she must continue education/apprenticeship under a licensed contractor for not less than 2,000 hours prior to re-examination.

4. Homeowners. The owner of a single-family dwelling (or mobile home), including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if such person demonstrates the capability to do such work to the satisfaction of the Building Official, provided that the dwelling (or mobile home) will be occupied by the owner and that a permit is issued and an inspection obtained as provided in this chapter.

127.06 ELECTRICIANS' EXAMINING BOARD.

1. There is created a Board of Electrical Examiners. The board shall consist of four (4) members. All members of the examining board shall

be residents of the City. The Building Official shall be a member; one member shall be a licensed journeyman electrician; one member shall be a licensed electrical contractor; and one member shall be a non-electrician. The Council shall appoint the latter three members. The Building Official shall serve as Secretary to the board and keep minutes and records of all proceedings and shall record the names and addresses of all persons examined by the board, the result of the examination, and the kind of license issued to each, if any, and the date thereof.

2. The term of each member other than the Building Official shall be two years. The original appointments to the examining board shall be made as follows: one member shall be appointed to serve for a period of one year and one member shall be appointed to serve two years.

3. The Council shall provide suitable space in which the examining board may hold its meetings, and all necessary equipment and facilities for holding examinations. The Council shall pay the expense of these examinations.

4. Two members of the examining board shall constitute a quorum for the transaction of business, but final action of the board shall require a majority vote of all of its members.

5. Members of the board of examiners shall receive compensation of ten dollars ($10.00) each per examination, except such member who may be an employee of the City on a regular salary, who shall be paid on his or her regular hourly basis for such time as is actually spent conducting such examinations.

127.07 POWERS AND DUTIES OF BOARD OF EXAMINERS. The examination board shall meet the last Tuesday of the month to review applications and/or conduct the examination of applicants for licenses. The examining board shall have the power and right to hear all complaints on decisions of the electrical inspector (Building Official). Appeals from such decisions may be taken to the board of examiners for final decision.

127.08 APPLICATIONS FOR EXAMINATIONS. Any person who desires to be licensed as an electrical contractor (master electrician), journeyman electrician, restricted electrician or maintenance electrician shall make application to the Building Official for an examination. The Building Official shall provide application forms for this purpose. The completed forms shall include the applicant's name, home address, business addresses, and a brief resume of training and experience.

127.09 EXAMINATION FEE. Every person who takes an examination for an electrical contractor's (master electrician's) license, a journeyman

electrician's license, a restricted electrician's or a maintenance electrician's license shall pay an examination fee of thirty dollars ($30.00), plus any applicable Experior exam fees, in advance of the exam date, payable to the Clerk, and the receipt number therefor shall be entered on the application for a license.

127.10 REEXAMINATION. If an applicant fails to pass an examination, the applicant may apply for reexamination at the next regularly scheduled examination date and upon payment of another examination fee of thirty dollars ($30.00), plus any applicable Experior exam fees. No applicant may take an examination more than two times in a one-year period.

127.11 LICENSE OR PERMIT FEES AND EXPIRATION DATES. Before any license is issued, the applicant shall pay a license or permit fee. All licenses or permits shall expire on December 31 and shall be renewed biennially upon application of the licensee or permittee and payment of the fee. Any license or permit not renewed prior to December 31 shall expire on December 31 and may not be renewed without examination, except on recommendation of the examining board. License fees shall be charged according to the following schedule:

Electrical contractor fee.....$ 100.00
Journeyman electrician fee.....$ 40.00
Restricted electrician fee .....$ 20.00
Maintenance electrician fee.....$ 20.00
Inactive fee .....$ 30.00 (contractor and/or journeyman; no proof of insurance required)

127.12 EXAMINATION WAIVED. Any electrical contractor or journeyman electrician who comes to the City and who produces credentials showing proper accreditation as an electrical contractor or journeyman electrician can be excused from the examination required under this chapter, and a license can be issued to said person upon payment of the required fee, if the board approves said person's credentials.

127.13 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the examining board may revoke or suspend any license issued under this chapter. No license revocation or suspension, except as provided in Section 127.14, shall be lawful unless the following requirements have been satisfied:

1. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference

to code provisions allegedly violated, and specifications of time, place and nature of the hearing.

2. The examining board shall conduct a public hearing for the purpose of resolving those issues of law and fact arising out of the individual case. Should the licensee or his or her authorized representative fail to appear without good cause, the Council may proceed, in the licensee's absence, to a determination of the issues.

3. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.

4. The examining board shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of the City Electrical Code.

127.14 SUMMARY SUSPENSION. If the examining board finds that the public health or safety requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending Section 127.13 suspension or revocation proceedings. Immediately upon issuance of an order of summary suspension, the examining board shall institute proceedings pursuant to the requirements of Section 127.13.

127.15 APPEAL. In the event any person shall feel aggrieved by any action of the examining board, said person may appeal from such action to the Council by filing written notice of such appeal within ten (10) days from the date of the action. The Council shall give the appealing party and the examining board five days' written notice by certified mail of the date, time and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council may affirm, modify or overrule the action of the examining board. Action taken by the examining board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record.

127.16 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

127.17 EXEMPTIONS. Public utilities regularly supplying electrical service in the City or railroads maintaining their own electrical departments are exempt from the provisions of this chapter in regard to work performed on property owned by them. Telephone and telegraph companies are exempt from all

provisions of this chapter. The following activities are also exempt from the provisions of this chapter:

1. The installation, alteration, or repair of electrical signal or communication equipment owned or operated by a public utility company or the City;

2. Any work on or in boats, railway cars, trackless trolleys, buses, aircraft and motor vehicles;

3. Any work in connection with electrical equipment used for radio and television transmission, but not including supply wire to such equipment;

4. Any work involved in the manufacturing or testing of electrical equipment or apparatus, but not including any permanent wiring or equipment;

5. Any work associated with minor repair work of minor installations, the estimated cost of which does not exceed fifty dollars ($50.00) or replacement of lamps or the connection of portable electrical equipment suitable to permanently installed receptacles, permanently connected electrical appliances or devices that have been electrically and mechanically disconnected and separated from all sources of electrical supply by a licensed electrician;

6. The installation or replacement of approved fuses;

7. The installation or replacement of pin-type lamps or plug-connected portable appliances.

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CHAPTER 128

MECHANICAL CONTRACTOR LICENSES

128.01 Definitions
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128.03 Mechanical Contractor's License
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128.06 Restrictions Governing Employment of Apprentices
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128.20 Employment of Licensed Mechanical Installer

128.01 DEFINITIONS. For use within this chapter, the following terms are defined:

1. "Journeyman mechanical installer" means a person who has the necessary qualifications, training, experience and technical knowledge to do heating, ventilating and cooling installation work in accordance with the standard rules and regulations governing such work under this chapter.

2. "Licensed" means licensed under this chapter unless otherwise specified.

3. "Mechanical contractor" means any person, firm, corporation, partnership, association or combination thereof who undertakes or offers to undertake to plan for, lay out, supervise and do heating, ventilating and cooling installation work for a fixed sum, price, fee, percentage or compensation.

128.02 LICENSE REQUIRED. No person shall engage in doing heating, ventilating and cooling installation work unless licensed as a mechanical contractor or journeyman mechanical installer except as provided in this section. Mechanical contractors shall employ, for heating, ventilating and cooling installation work, journeyman mechanical installers licensed under this chapter. The owner of a single-family dwelling (or mobile home), including the usual accessory buildings and quarters used exclusively for living purposes, may do his or her own work without a license if said owner demonstrates the capability to do such work to the satisfaction of the inspector, provided that the dwelling (or mobile home) will be occupied by the owner and that a permit is issued, or inspection obtained as provided in this chapter.

128.03 MECHANICAL CONTRACTOR'S LICENSE. No person, firm, corporation, partnership, association or combination thereof shall engage in mechanical contracting within the City unless such person, firm, corporation,

partnership, association or combination thereof has obtained from the City a mechanical contractor's license. No license shall be issued until such licensee has filed with the Clerk proof of insurance with the following limits:

General Liability $500,000.00
Personal Injury $500,000.00/person
..... $1,000,000.00/accident
Property Damage $100,000.00

Said policy shall hold harmless the City or have the City as a named insured for any liability or damage arising from the licensee's failure to comply with the current Mechanical Code requirements.

128.04 MECHANICAL CONTRACTOR QUALIFICATIONS. A mechanical contractor shall have a general practical knowledge of the purpose and method of installing heating, ventilating and cooling equipment, be competent to plan and supervise the installation of heating, ventilating and cooling equipment, and shall be required to have some knowledge of mechanical drawings and pass satisfactorily an examination for a mechanical contractor's license.

128.05 JOURNEYMAN MECHANICAL INSTALLER QUALIFICATIONS. A journeyman mechanical installer must be able to read blue prints and must be acquainted with the City Mechanical Code (*Uniform Mechanical Code*). Said person shall have at least three (3) years of practical experience assisting in the installation of heating, ventilating and cooling equipment and shall furnish the examining board with bona fide information of such practical experience and satisfactorily pass an examination for a license.

128.06 RESTRICTIONS GOVERNING EMPLOYMENT OF APPRENTICES. No mechanical contractor shall hire or employ or have in his or her employ any apprentice who is not registered with the City building inspection department as such, nor shall any mechanical contractor employ more than one apprentice for each journeyman in his or her employ. At no time shall any apprentice perform any work unless he or she is actually in the presence of and with a fully licensed journeyman. Every apprentice shall, at the time of starting to work as an apprentice, register his or her name and address with the City inspection department (Building Official).

128.07 MECHANICAL EXAMINING BOARD.

1. There is created a Board of Mechanical Examiners. The board shall consist of four (4) members. All members of the examining board shall be residents of the City. The Building Official shall be a member; one member shall be a licensed journeyman; one member shall be a

licensed contractor; and one member shall not be connected with the construction field. The Council shall appoint the latter three members. The Building Official shall serve as Secretary to the board and keep minutes and records of all proceedings and shall record the names and addresses of all persons examined by the board, the result of the examination, and the kind of license issued to each, if any, and the date thereof.

2. The term of each member other than the Building Official shall be two (2) years; the original appointments to the examining board shall be made as follows: one member shall be appointed to serve for a period of one year, and one member for two years.

3. The Council shall provide suitable space in which the examining board may hold its meetings, and all necessary equipment and facilities for holding examination. The Council shall pay the expense of these examinations.

4. Two members of the examining board shall constitute a quorum for the transaction of business, but final action of the board shall require a majority vote of all of its members.

5. Members of the board of examiners shall receive compensation of ten dollars ($10.00) each per examination, except such member who may be an employee of the City on a regular salary, who shall be paid on his or her regular hourly basis for such time as is actually spent conducting such examinations.

128.08 POWERS AND DUTIES OF BOARD OF EXAMINERS. The examining board shall meet the last Tuesday of the month to review applications for licenses. The examining board shall have the power and right to hear all complaints on decisions of the mechanical inspector (Building Official). Appeals from such decisions may be taken to the board of examiners for final decision.

128.09 APPLICATIONS FOR EXAMINATIONS. Any person who desires to be licensed as a mechanical contractor (master heating installer) or a journeyman mechanical installer shall make application to the Building Official for an examination. The Building Official shall provide application forms for this purpose. The completed forms shall include the applicant's name, home address, business addresses, and a brief resume of training and experience.

128.10 EXAMINATION FEE. Every person who takes an examination for a license first shall pay a fee of thirty dollars ($30.00), plus any additional fee for the Experior exam. Examination fees shall be turned over to the Clerk and the receipt number therefor shall be entered on the application for a license.

128.11 NATURE OF EXAMINATION. The examination shall be practical, written or oral, or a combination thereof, and shall be of such nature as to test the capabilities of all applicants for the same type of license uniformly. The applicant shall clearly demonstrate to the board qualifications for the particular license as set out in this chapter, and show satisfactory knowledge of the methods and standards for doing work under the Mechanical Code of the City.

128.12 REEXAMINATION. If an applicant fails to pass an examination, the applicant may apply for reexamination at the next regularly scheduled examination date and upon payment of another examination fee of thirty dollars ($30.00), plus any applicable Experior exam fees.

128.13 LICENSE FEES AND EXPIRATION DATES. Before a license is issued, the applicant shall pay a license fee. All licenses shall expire on December 31 and shall be renewed biennially upon application of the licensee and payment of the fee. Any license not renewed prior to December 31 shall expire on December 31 and may not be renewed without examination, except on recommendation of the examining board. License fees shall be charged according to the following schedule:

Mechanical contractor fee.....	$	80.00 (includes journeyman fee)
Journeyman mechanical fee....	$	30.00
Inactive fee.....	$	20.00 (contractor and/or journeyman; no proof of insurance required)

128.14 EXAMINATION WAIVED. Any mechanical contractor or journeyman who comes to the City from another city or town that has similar licensing standards and who produces credentials showing proper accreditation as a mechanical contractor or journeyman can be excused from the examination required under this chapter, and a license can be issued to said person upon payment of the required fee, if the board approves said person's credentials.

128.15 LICENSE REVOCATION OR SUSPENSION. In addition to penalties otherwise provided, the examining board may revoke or suspend any license issued under this chapter. No order of license revocation or suspension, except as provided in Section 128.16, shall be lawful unless the following requirements have been satisfied:

1. The licensee shall be served with written notice containing assertions of fact or conduct which warrant the intended action, reference to code provisions allegedly violated, and specification of the time, place, and nature of the hearing.

2. The examining board shall conduct a public hearing for the purpose of resolving those issues of law and fact arising out of the

individual case. Should the licensee or authorized representative fail to appear without good cause, the Council may proceed, in the licensee's absence, to a determination of the issues.

3. The licensee shall have the right to be represented by counsel, to testify and present witnesses in his or her own behalf, and to cross-examine adverse witnesses.

4. The examining board shall make and record findings of fact and conclusions of law and shall issue an order of suspension or revocation only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of the City Mechanical Code.

128.16 SUMMARY SUSPENSION. If the examining board finds that the public health or safety requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending Section 128.15 suspension or revocation proceedings. Immediately upon issuance of an order of summary suspension, the examining board shall institute proceedings pursuant to the requirements of Section 128.15.

128.17 APPEAL. In the event any person shall feel aggrieved by any action of the examining board, he or she may appeal from such action to the Council by filing written notice of the appeal within ten (10) days from the date of the action. The council shall give the appealing party and the examining board five days' written notice by certified mail of the date, time and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council may affirm, modify or overrule the action of the examining board. Action taken by the examining board shall be affirmed by the Council if such action is supported by substantial evidence upon the whole record

128.18 TRANSFER OF LICENSE. It is unlawful for any license holder to transfer his or her license or to allow it to be used, directly or indirectly, by any other person.

128.19 LICENSE RENEWAL. Renewals of licenses shall be issued upon application and payment of fees to the Clerk. Renewal fees are: sixty dollars ($60.00) for a mechanical contractor's license and twenty dollars ($20.00) for a journeyman license. Each such application for a renewal shall be made on or before December 31 of every other year. Any person failing to make application for a renewal shall be subject to a new examination and shall pay another examination fee. Licenses shall not be transferable and shall expire on December 31 of every other year.

128.20 EMPLOYMENT OF LICENSED MECHANICAL INSTALLER. No person shall employ any person to engage in the installation or repair of any mechanical work in or for any building or mobile home in the City unless such person has obtained a mechanical contractor's license.

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CHAPTER 129

TREE TRIMMERS

129.01 Definition
129.02 License Required
129.03 Insurance Required

129.01 DEFINITION. As used in this chapter, "tree trimmer" means any person soliciting the work of felling trees, bracing and/or bolting branches or parts of trees or cutting or trimming any tree or limbs or branches of any tree or offering services in the diagnosis and treatment of diseases of any tree for a valuable consideration.

129.02 LICENSE REQUIRED. Every tree trimmer shall make application in writing annually, before engaging in any service designated in this chapter, on a form furnished by the Clerk and shall pay an annual license fee as set by the Council. All applicants will be required to follow and abide by the International Society of Arboriculture Standards when trimming trees. The applicant for the license shall give information for the license and the nature of the equipment available. Within fifteen (15) days the Clerk shall approve or disapprove the application. All licenses shall terminate on December 31st of the year issued.

(Ord. 2160 – May. 11 Supp.)

129.03 INSURANCE REQUIRED. Before any such license is issued, the applicant shall obtain and file with the Clerk a public liability insurance policy insuring against any loss that the City or any person may sustain arising out of or in connection with such services performed by such tree trimmer. Such insurance coverage shall include not less than $100,000.00 for property damage, $500,000.00 for a single personal injury or death, with limits of not less than $500,000.00 for multiple injuries or deaths. This coverage shall be in addition to automobile public liability insurance for any car or truck operated by the licensee in the business. Such policy shall contain a provision that it may not be canceled except after thirty (30) days' notice to the Clerk.

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CHAPTER 130

GOING-OUT-OF-BUSINESS, REMOVAL OF BUSINESS AND FIRE OR WATER DAMAGE SALES

130.01 Definitions
130.02 License Required
130.03 Powers and Duties of Clerk
130.04 Application for License
130.05 Investigation and Approval of Application
130.06 Revocation
130.07 Effect of License
130.08 Duties of Licensee
130.09 Restricted Location
130.10 Exemptions
130.11 General Licensing Ordinances

130.01 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms, for the purpose of this chapter, shall have the following meanings:

1. "Advertising" means any means of conveying to the public notice of sale or notice of intention to conduct the sale, including but not limited to newspaper or magazine advertisements, handbills, printed matter, window signs, banners, billboard displays, and radio or television announcements.

2. "Bankrupt sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person is selling a stock of goods purchased or acquired in a bankruptcy or insolvency proceeding.

3. "Fire or water damage sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person will offer at retail goods damaged or altered by fire, smoke or water.

4. "Going-out-of-business sale" is a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the person will cease and discontinue the business, including but not limited to sales which may be designated as: assignee's; bankrupt; benefit of administrator's; benefit of creditors'; benefit of trustees'; building coming down; closing; creditors committee; creditors' end; executor's; final days; forced out; forced out of business; going out of business; insolvent; last days; lease expires; liquidation; loss of lease; mortgage sale; receiver's; trustee's; quitting business.

5. "Goods" means any goods, wares, merchandise, or other property capable of being the object of a sale regulated under this chapter.

6. "License" means a license issued pursuant to this chapter.

7. "Licensee" means any person to whom license has been issued pursuant to this chapter.

8. "Premises" means the one store or place of business owned or operated by the applicant for which a license may be applied for and issued as provided in this chapter. Except as otherwise specifically limited in the license, premises includes any space owned, leased, operated or controlled by the applicant which is adjacent to or included in the building or store in which the business of the applicant is carried on.

9. "Removal of business sale" is a sale held out in such a manner as to reasonably cause the public to believe that the person will cease and discontinue business at the premises upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the City or will then continue business from other existing locations in the City.

130.02 LICENSE REQUIRED. A license issued by the Clerk shall be obtained by any person before selling or offering to sell at retail any goods at a sale to be advertised or held out by any means to be one of the following kinds: going-out-of-business sale; removal of business sale; fire or water damage sale; or bankrupt sale.

130.03 POWERS AND DUTIES OF CLERK. The Clerk is authorized and empowered to supervise or regulate the type of sale defined in this chapter, and to issue appropriate license or licenses therefor, upon proper application.

130.04 APPLICATION FOR LICENSE. A person desiring to conduct a sale regulated by this chapter shall make a verified written application to the Clerk on a form approved by the Clerk, setting forth the following information:

1. The name and address of the owner of the goods to be sold.

2. The name and address of any person who has contracted or agreed with the owner of the goods to be sold to conduct or in any manner supervise the sale.

3. The effective date of the termination of such occupancy.

4. The period of time during which the proposed sale is to be conducted;

5. A full and complete statement of the facts regarding the sale including: in the case of a fire or water damage sale, the date of the fire or water damage; in the case of a going-out-of-business sale, the reason for discontinuing the business at the premises; in the case of a removal of business sale, the reason for discontinuing the business at the premises and the address of the new place of business, if any, where the applicant

will conduct its business; in the case of a bankrupt sale, the court and the name in which the bankruptcy matter is pending and the date and place of sale of the goods to applicant;

130.05 INVESTIGATION AND APPROVAL OF APPLICATION. Upon receipt of such application, the Clerk shall cause an investigation to be made by the Police Chief of the statements and representations set forth in the application, and after receiving a report by the Police Chief, the Clerk, if reasonably satisfied that the provisions of this chapter will be complied with and the sale will be properly conducted and in a suitable location, may issue a license therefor permitting the publication and conduct of such sale.

130.06 REVOCATION. Whenever the Clerk finds that the licensee or an employee or agent of the licensee has furnished any false information required under this chapter or has violated or failed to comply with any of the requirements of this chapter, the Clerk shall revoke the license and the licensee will be ordered to terminate the sale immediately.

130.07 EFFECT OF LICENSE. If, after investigation, the Clerk concludes that facts exist justifying the license, the Clerk may issue a license on the following terms:

1. Licensing Period. The license shall authorize the sale described in the application for a period of not more than thirty (30) consecutive days following the issuance thereof.

2. Renewal Procedure. The Clerk may renew the license for two periods of time only, each renewal to be for thirty (30) consecutive days running consecutively from the expiration date of the original license, provided the Clerk finds, as to each such renewal that:

A. The licensee has filed an application for renewal; and

B. The licensee has not added any goods to the original inventory being sold.

3. Nature of Sale. The license-shall authorize only the one type of sale described in the application at the premises named therein.

130.08 DUTIES OF LICENSEE. A licensee under this chapter shall:

1. Adhere to Inventory. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods being sold at the sale.

2. Avoid Misleading Advertising. Refrain from employing any untrue, deceptive or misleading advertising. No advertising of such sale shall refer to the previous retail price of any goods being reduced in price

as a part of the sale unless identical goods were offered for sale continuously at that retail price during the ninety-day period of time immediately prior to the commencement of such sale. Evidence of prior sales shall be available to the Clerk on demand. Any advertising shall state the license number of the sale as issued under this chapter and the name and address of the person, if any, who has contracted or agreed with the owner of the goods to be sold to conduct or supervise the sale.

3. Segregate Non-listed Goods. In the case of a fire or water damage sale, the licensee shall keep goods, if any, which are not included in the sale separate and apart from goods listed in the application as being objects of the sale and shall make such distinction clear to the public by placing tags, on either all listed goods or all non-listed goods, apprising the public concerning the status of same.

4. Display License. Post in a prominent place upon the premises where the sale is conducted the license issued under this chapter.

130.09 RESTRICTED LOCATION. When a person applying for a license under this chapter operates the business from more than one premises, the license issued shall apply only to the one place of business, store, or branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with it, or in any way participating in the licensed sale. The store or branch conducting the licensed sale shall not advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale. Nothing herein provided shall prohibit a person from applying for a separate license for each premises operated by such person.

130.10 EXEMPTIONS. The provisions of this chapter shall not apply to or affect the following:

1. Persons acting pursuant to an order or process of a court of competent jurisdiction;

2. Persons acting in accordance with their powers and duties as public officials;

3. Duly licensed auctioneers, selling at auction;

4. Any newspaper, magazine or other publication or any radio or television station or the officers or employees thereof, which publishes or broadcasts in good faith any advertising of sales referred to in this chapter without actual knowledge from the Clerk of its false, deceptive, or misleading character, or that the provisions of this chapter have not been complied with.

130.11 GENERAL LICENSING ORDINANCES. The provisions of this chapter are intended to augment and be in addition to the provisions of the general licensing ordinances of the City. If this chapter imposes a greater restriction upon any person, premises, business or practice than is imposed by the general licensing ordinances of the City, this chapter shall control.

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CHAPTER 131

FAIR HOUSING

131.01 Purpose and Declaration of Policy
131.02 Construction
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131.04 Discriminatory Terms
131.05 Refusal to Negotiate
131.06 Withholding Housing
131.07 Advertisements, Signs and Notices
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131.11 Representation
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131.15 Complaints; Conciliation
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131.17 Enforcement
131.18 Limitation of Time to File Complaints
131.19 Remedies
131.20 Temporary Court Order
131.21 Judicial Review of Board Order

131.01 PURPOSE AND DECLARATION OF POLICY. It is declared to be the purpose of this chapter and the policy of the City, in the exercise of its police and regulatory powers for the protection of the public safety, for the health, morals, safety, and welfare of the persons in and residing in the City, and for the maintenance and promotion of commerce, industry and good government in the City, to secure for all persons living and/or working or desiring to live and/or work in the City a fair opportunity to purchase, lease, rent, or occupy real estate without discrimination based on race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation or national origin.

131.02 CONSTRUCTION. This chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purpose and policy stated in Section 131.01 and the special purposes of the particular provision involved.

131.03 DEFINITIONS. For the purposes of this chapter:

1. "Age" means chronological age.

2. "Board" means the Fair Housing Board.

3. "Education association" means the fact of being enrolled or not being enrolled at any educational institution.

4. "Family responsibilities" means the state of being or the potential to become a contributor to the support of an individual or individuals in a dependent relationship.

5. "Lease" includes sublease, assignment, and rental, and includes any contract to do any of the foregoing.

6. "Lending institution" means any bank, insurance company, savings and loan association, or any other person in the business of

lending money or guaranteeing loans, any person of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money which are secured by title to or a security interest in real estate.

7. "Marital status" means the state of being married, unmarried, divorced, or widowed.

8. "National origin" includes the national origin of an ancestor.

9. "Owner" means any person who holds legal or equitable title to, owns any beneficial interest in any real property, or who holds legal or equitable title to shares of, or who holds any beneficial interest in any real estate cooperative which owns any real property.

10. "Panel" means a panel comprised of three or more members of the Board, designated by the Chairperson of the Board, to investigate and to attempt to conciliate a complaint filed or made under Section 131.15.

11. "Person" includes one or more individuals, corporations, partnerships, associations, legal representatives, mutual companies, unincorporated organizations, trusts, trustees, trustees in bankruptcy, receivers, and fiduciaries.

12. "Physical limitation" means a limitation of physical capabilities unrelated to one's ability to safely perform the work involved in jobs or positions available to such person for hire or promotion or a limitation of physical capabilities unrelated to one's ability to acquire, rent, and maintain property. "Physical limitation" includes, but is not limited to, blindness or partial sightedness, deafness or hearing impairment, muteness, partial or total absence of physical member, speech impairment and motor impairment.

13. "Purchase" includes any contract to purchase. "Sale" includes any contract to sell, exchange, or to convey, transfer, or assign legal or equitable title to or a beneficial interest in real property.

14. "Real estate broker" means any person licensed as a real estate broker in accordance with the provisions of Section 117.3, Code of Iowa, or required thereby to be so licensed. "Real estate agent" means any real estate broker, any real estate salesman, and any other person who, as employee or agent or otherwise, engages in the management or operation of any real property.

15. "Real estate transaction" means the purchase, sale, exchange, rental, or lease of any real property, or an option to do any of the foregoing.

16. "Real property" means any real estate, vacant land, building, or structure, or any part thereof, within the City limits.

17. "Sexual orientation" means any male or female homosexuality, heterosexuality or bisexuality, by preference or practice.

18. "Source of income" means any legal source from which a person obtains money.

131.04 DISCRIMINATORY TERMS. It is an unlawful housing practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or other person to sell or rent or offer to sell or rent a real property on terms, conditions, or privileges that discriminate between persons because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin

131.05 REFUSAL TO NEGOTIATE. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or other person to refuse to negotiate for, enter into, or perform any sale or lease of any real property because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation or national origin.

131.06 WITHHOLDING HOUSING. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or other person to represent to any person that any real property is not available for inspection, purchase, sale, lease, or occupancy when, in fact, it is so available, or otherwise to hold real property from any person because of race, color, religion, sex,, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin.

131.07 ADVERTISEMENTS, SIGNS AND NOTICES. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or other person to publish or circulate a statement, advertisement, or notice or to post or erect any sign or notice upon any real property indicating any intent to sell or lease any real property, in a manner that is unlawful under this section or Sections 165.05, 165.06, 165.07 or 165.09.

131.08 REFUSAL OF OFFERS. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, or other person to refuse to receive or to fail to transmit a bona fide offer for the purchase, sale, exchange, or lease of any real property because of the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin of person making such offer.

131.09 DISCRIMINATION IN LENDING. It is an unlawful real estate practice and a violation of this chapter for any lending institution to refuse to negotiate for, enter into, or perform any agreement to lend or guarantee the loan of funds or in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation, improvement, renovation, or repair of any real property, or to offer or agree to terms, conditions, or privileges that discriminate between persons because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin of any party to such agreement, or of any member of the family of any such party, or of the residents of the area in which such real property is located.

131.10 LICENSING. Every real estate broker shall apply for and obtain a license from the Iowa Real Estate Commission prior to transacting any business involving real estate as a real estate broker and prior to advertising or assuming to act as such real estate broker, as provided for under the Code of Iowa.

131.11 REPRESENTATION. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or other person, for the purpose of inducing any other person to enter into a real estate transaction with such person, principal, or agent, to:

1. Represent that a change has occurred, will occur, or may occur with respect to race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin in the composition of the owners or occupants in any block, neighborhood, or area in which the real property (which is the subject of the real estate transaction) is located; or

2. Represent that a change with respect to the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin in the composition of the owners or occupants in any block, neighborhood, or area will result in the lowering of property values, or in

an increase in criminal or antisocial behavior, or in a decline in the quality of schools in such blocks, neighborhood, or area.

131.12 OTHER VIOLATIONS. It is an unlawful real estate practice and a violation of this chapter for any real estate broker, salesman, agent, owner, or any other person:

1. To aid, abet, incite, or coerce a person to commit an unlawful real estate practice under this chapter;

2. To purchase, lease, or rent real estate for residential purposes, or authorize and direct one in his or her employment or on his or her behalf to do so, or solicit any other person to do so on his or her behalf for the specific reason and intention of preventing any other person from purchasing, renting, leasing, or occupying such residential real estate by reason of the race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin of such person;

3. To deliberately and knowingly refuse examination of copies of any listing of real property in the City to any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin;

4. To enter into a listing agreement which prohibits the inspection, sale, lease or occupancy of real property to any person because of race, color, religion, sex, age, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin;

5. To knowingly and willfully interfere with the performance of a duty or the exercise of a power by the Board or one of its members or representatives;

6. To willfully obstruct or prevent or attempt to obstruct or prevent a person from complying with the provisions of this chapter or an order issued thereunder.

131.13 FAIR HOUSING BOARD. There is created a Fair Housing Board which shall consist of five (5) members as provided in this chapter. All five members of the Board shall be appointed from the community at large and shall be citizens who are willing to expend the time and effort necessary to carry out the duties of the Board. Members shall be appointed by the Mayor subject to the approval of the Council for staggered terms of three (3) years or until a successor is duly appointed and qualified. The Board shall elect one of its members to be its Chairperson. Three (3) members shall constitute a quorum,

but the concurrence of the majority of the entire Board (obtained either at a meeting of the Board or in a poll conducted by the Chairperson) shall be necessary for Board action.

131.14 FAIR HOUSING BOARD DUTIES AND POWERS. The Board shall have and exercise the following duties and powers:

1. To act to eliminate unlawful real estate practices that violate this chapter;

2. To act to assure to persons living, working, or desiring to live in the City the opportunity to purchase, lease, or occupy real property without discrimination because of race, color, religion, age, sex, marital status, physical limitations, source of income, family responsibilities, educational association, sexual orientation, or national origin;

3. To receive and investigate complaints alleging unlawful real estate practices in violation of this chapter;

4. To attempt elimination of unfair real estate practices by conciliation, conference, and/or persuasion;

5. To hold public hearings in the event that its efforts under subsection 4 of this section are ineffective or where it deems that such efforts will be ineffective;

6. To instruct the City Attorney to commence appropriate court action against those the Board has found to be in violation of this chapter;

7. To recommend to the Iowa Real Estate Commission suspension and/or revocation of licenses of real estate brokers in accordance with the requirements of this chapter;

8. To render from time to time, but not less than every twelve (12) months, a written report to the Council of its activities and recommendations with respect to fair real estate practices, which written reports shall be made public after submission to the Council;

9. To exercise such other powers as are vested in the Board by other sections of this chapter and to adopt such rules and regulations as may be necessary to carry out the purposes of this chapter.

131.15 COMPLAINTS; CONCILIATION.

1. Any person aggrieved in any manner by any violation of any provision of this chapter may file with the Board a written verified complaint setting forth such grievance. The complaint shall state:

A. The name and address of the complainant;

B. The name and address of the person against whom the complaint is brought, if known to the complainant; and

C. The alleged facts surrounding the alleged violation of this chapter.

D. The names and addresses of all persons believed to have knowledge concerning the alleged facts.

After the filing of any complaint, the Board shall serve a copy of the complaint on the party or parties charged and the Chairperson of the Board shall designate a panel, as defined in this chapter, to make a prompt investigation in connection therewith.

2. If such panel determines after such investigation that probable cause exists for the allegations of the complaint:

A. The Chairperson of the Board shall set a time and date for a conference with the Board; said conference shall be private.

B. At such conference, the Board shall interview the complainant and the person or persons against whom the complaint has been directed and shall attempt to resolve the complaint by all proper methods of conciliation and persuasion.

3. If, at any time after date of filing of the complaint, the Board determines that such attempt at conciliation and persuasion would not be in furtherance of the objectives of this chapter, the Board shall proceed promptly to a full hearing on the complaint in accordance with this Section 131.16.

131.16 HEARINGS BY BOARD. Such hearings shall be conducted by the entire Board or a quorum thereof upon ten days' notice to all parties. The Board shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Board shall have power to administer oaths and to take sworn testimony. The Board shall have the power to subpoena witnesses and pertinent documents, which power may be enforced by the Board by proper petition to the District Court of the County where the complainant resides. The complainant and any party alleged to have violated this chapter shall be entitled to be represented by Counsel and shall have the right to call witnesses on their own behalf and to cross-examine witnesses.

131.17 ENFORCEMENT.

1. If, upon all evidence at the hearing, the Board finds that the person complained of has violated any of the provisions of this chapter,

the Board shall state its findings of fact and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such violation, and to take such affirmative or other action as, in the judgment of the Board, will effectuate the purpose of this chapter, including a report of the manner of compliance.

2. If, upon all the evidence at the hearing, the Board finds that the person complained of has not violated any of the provisions of this chapter, the Board shall state its findings of fact and shall issue and cause to be served upon the complainant an order dismissing the complaint.

3. The Board shall retain jurisdiction of the case until it is satisfied the person to whom the order was directed has complied. The order of the Board and its findings of fact shall be issued within thirty (30) days after the filing of the complaint and shall be delivered to the complainant, the person charged, and the Mayor.

4. The Board shall be empowered at the conclusion of the proceedings held under Section 131.16 to instruct the City Attorney to do any one or more of the following:

A. To institute and prosecute proceedings in a court of competent jurisdiction against any person found in violation of this chapter;

B. To apply to any court of competent jurisdiction for: (i) an order restraining any person from violating any provision of this chapter, and (ii) such other future relief as may seem to the court appropriate for the enforcement of this chapter and for the elimination of violations thereof;

C. To petition or institute proceedings with the Iowa Real Estate Commission for the purpose of causing the commission to revoke, suspend, or refuse to renew the license granted by such commission to any real estate broker or real estate salesman found to have violated any provision of this chapter.

5. The Board is also empowered at the conclusion of such proceedings to recommend to the Iowa Real Estate Commission suspension and/or revocation of the broker's license of any broker licensed by the Iowa Real Estate Commission against whom a complaint has been filed and who has been a party to any proceedings thus filed and found guilty of violating any applicable provisions of this chapter.

131.18 LIMITATION OF TIME TO FILE COMPLAINTS. Any complaint filed under this chapter with the Board must be filed within sixty (60) days after the alleged discriminatory practice occurred or it shall be barred.

131.19 REMEDIES. Any person aggrieved in any manner by the violation of any provision of this chapter who has exhausted the remedies provided in Sections 131.15 and 131.16 may apply to any court of competent jurisdiction for appropriate relief from such violation, including:

1. An order compelling compliance with this chapter;

2. An order to prohibit any person found by the court to have violated any provision of this chapter from the sale, lease, exchange, transfer, conveyance, or assignment of any dwelling or housing which is the subject of such violation;

3. An order requiring specific performance of any contract for the sale, lease, exchange, transfer, conveyance, or assignment of any dwelling or housing, by any person who in violation of this chapter refuses or fails to perform such contract;

4. Compensatory damages and, if appropriate, punitive damages;

5. Such other and further relief as may seem appropriate to the court for the enforcement of this chapter and the elimination of violations thereof.

131.20 TEMPORARY COURT ORDER. Any complainant under this chapter may apply to a court of competent jurisdiction for an order temporarily prohibiting any transaction affecting the real property which is the subject of the complainant's pending complaint under this chapter prior to final determination by the Board where the owner of said property is one of the parties complained of.

131.21 JUDICIAL REVIEW OF BOARD ORDER. Any party, complainant or person aggrieved by an order of the Board shall have the right to obtain judicial review of such order.

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CHAPTER 132

TAXI SERVICE REGULATIONS

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132.03 License Required
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132.05 Annual Fee
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132.07 Identification of Operator and Driver
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132.09 Passengers
132.10 Rates and Fare Meters
132.11 License Revocation

132.01 PURPOSE. The purpose of this chapter is to regulate the operation of taxis for the protection of the public and for their convenience, health, safety and welfare.

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

1. "Driver" refers to the person hired to drive the taxi.

2. "Operator" means any person, firm, partnership, corporation or other association, whether or not he or she is the owner or owners of a taxi, that will profit financially by the operation of a taxi, but does not include a person hired to drive a taxi.

3. "Taxi" means any motor vehicle that is used on the streets of the City for the purpose of carrying passengers for hire, and that follows no regular route or time schedule.

132.03 LICENSE REQUIRED.

1. It is unlawful to engage in the business of operating a taxi in the City without first having secured a license therefor. Applications for such licenses shall be made in writing to the Clerk, and shall state thereon the name of the applicant, the intended place of business and the number of taxis to be operated. If the applicant is a corporation, the names and addresses of the president and secretary thereof shall be given.

2. In the event the taxi service is licensed in another community in Iowa, the City will give reciprocity to that license and not require a separate application. However, a copy of the license issued by the other jurisdiction shall be filed with the Clerk, be assessed an annual fee and be updated as the other license is updated. All operators will be required to register the license number and description of each taxi put into

service and to notify the Clerk of the description of any taxis taken out of service.

132.04 BACKGROUND CHECK OF APPLICANT REQUIRED. No operator will be permitted to operate a taxi service unless they submit to a complete criminal background check by the Boone Police Department. Anyone who has been convicted of a felony will not be eligible to operate a taxi service in the City.

132.05 ANNUAL FEE. All operators will be required to pay an annual fee to maintain their license or permission to operate the taxi service in the City. The fee will be set by the Council from time to time and increased without additional notice. Upon payment of the fee, the Clerk will issue a receipt which will be kept in the glove box of each vehicle indicating that the taxi may be operated for the current calendar year.

132.06 VEHICLES. No taxi shall be operated unless it bears a state license duly issued; and no such taxi shall be operated unless it is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror, and windshield wipers in good condition. In addition, all vehicles must be inspected by a certified mechanic yearly to see that they comply will all safety regulations of the State of Iowa. A certificate of inspection must be filed with the City Clerk's office before commencing operation in the City. ***(Ord. 2087 – Dec. 06 Supp.)***

132.07 IDENTIFICATION OF OPERATOR AND DRIVER.

1. All vehicles shall have on each side, in letters readable from a distance of twenty feet, the name of the operator. If the operator utilizes more than one vehicle in the City at one time, each vehicle must be designated with a different number of each side in addition to the operator's name.

2. Each driver must also have his identity displayed in a visible location that can be seen from all areas in the taxi. No driver may operate a taxi unless they have a valid drivers license issued by the State of Iowa.

132.08 INSURANCE. No taxi shall be operated unless it is covered by a bond or public liability policy in amounts designated by the Council and its insurance advisor. These amounts may change without notice. A certificate of insurance shall be filed with the Clerk as verification that the proper insurance is in effect.

132.09 PASSENGERS. It is the duty of the driver of any taxi to accept as a passenger any person who seeks to so use the taxi, provided such person is not

intoxicated or under the influence of drugs and conducts themselves in an orderly manner. No person shall be admitted to a taxi occupied by a passenger without the consent of the passenger. The taxi driver shall take their passenger to their destination by the most direct available route from the place where the passenger enters the taxi.

132.10 RATES AND FARE METERS. No taxi shall be operated unless it is equipped with a meter in good condition to record the amount to be charged on each trip, which amount shall be shown in figures visible to the passenger. Upon paying the fare, each passenger shall be given a receipt, if requested, showing the amount so paid and the name of the company or person driving the taxi. It is unlawful for a passenger to fail or refuse to pay the lawful fare at the termination of a trip. There shall be no additional charge for the handling of any luggage or packages which accompany the passenger.

132.11 LICENSE REVOCATION. The Council is authorized to revoke any license of any taxi service which violates any provision of this chapter or for repeated violations by the driver(s) of the taxis of traffic laws or ordinances of this city or state.

(Ch. 132 – Ord. 2077 – June 06 Supp.)

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CHAPTER 133

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

133.01 Definitions
133.02 License Required
133.03 Application and Issuance
133.04 License Not Transferable
133.05 License Shall Be Carried
133.06 Practices Prohibited
133.07 Exceptions
133.08 Revocation
133.09 Duration
133.10 Exclusion by Residents
133.11 Penalty for Violations

133.01 DEFINITIONS. For the purposes of this chapter the terms defined in this subsection have the meanings ascribed to them:

1. "Peddler" means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchaser.

2. "Solicitor" means any person who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares, or merchandise, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery. "Solicitor" does not include any person taking or attempting to take orders to be filled by goods, wares, or merchandise delivered to the purchaser from other states.

3. "Transient merchant" means any person, firm, or corporation who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the City, and who, in the furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer, or railroad car.

133.02 LICENSE REQUIRED. No peddler, solicitor, or transient merchant shall sell or offer for sale any goods, wares, or merchandise within the City unless a license therefore shall first be secured as provided in this chapter.

133.03 APPLICATION AND ISSUANCE. Application for such license shall be made to the City Clerk on a form supplied by the City along with an administrative fee of $20.00 per license application. The application shall state:

1. The name and address of the applicant and of all persons associated with him or her in his or her business, copies of each person's driver's license, and a recent photo no smaller than 1" x 2". If any person who is covered by the application does not possess a driver's license,

they may substitute a state issued identification card or a copy of their social security card. School identification cards will not be accepted.

2. The type of business for which the license is desired.

3. In case of transient merchants, the place where the business is to be carried on.

4. The length of time for which the license is desired.

5. A general description of the thing or things to be sold.

6. The place of residence of the applicant for the five years preceding the date of application. Every application shall be accompanied by a criminal background check provided by the applicant from the Iowa Department of Criminal Investigation at applicant's expense.

7. The City Clerk will review the application and issue a license if all required information is provided. If any information is not provided or the applicant refuses to provide it, the application will be denied.

133.04 LICENSE NOT TRANSFERRABLE. Any license issued under the provisions of this chapter shall not authorize any person or persons, except the identical person or persons named in said license to engage in business thereunder, and such license shall not be transferable.

133.05 LICENSE SHALL BE CARRIED. Every person licensed under this chapter shall have with him or her while engaged in such business the license received by him or her from the City Clerk and shall produce the same at the request of any City official or at the request of any individual, within the City, to whom he or she is exhibiting his or her goods or selling or attempting to sell same.

133.06 PRACTICES PROHIBITED. No person licensed under the provisions of this chapter shall, within the City, call attention to his or her business nor to the goods, wares or merchandise which he or she is selling or offering for sale by crying them out, by blowing a horn, or by any loud or unusual noise. A licensee is permitted to peddle, solicit, or sell goods or services between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday and 1:00-5:00 p.m. on Sundays.

133.07 EXCEPTIONS. This chapter shall not apply to sales made by commercial travelers or selling agents in the usual course of business with bona fide dealers, nor bona fide sales of articles by sample, for delivery at a future date, nor sales conducted pursuant to statute or by order of any court nor to bona fide auction sales conducted by an auctioneer duly licensed under the

statutes of the State of Iowa, nor to persons selling or peddling the products of the farm or garden cultivated by him or her. Also excluded from these regulations is any local or resident charity, church, school or non-profit organization, i.e. Boone National Little League Association, Boy Scout Troops, Girl Scout Troops, etc.

133.08 REVOCATION. Any license, issued under the provisions of this chapter, shall be subject to revocation by the City Council upon satisfactory proof of a violation of the provisions of this chapter by such licensee, provided, however, that such licensee shall be given notice of such proposed revocation and reasonable opportunity to appear before the City Council at its meeting when such revocation is considered. In the event the licensee commits a criminal act, other than a traffic violation, or is involved in any act that can be construed as harassment, intimidation, or threats of personal harm, the license may be seized by any law enforcement officer and banned from further sales within the City. Any licensee who loses his or her license by seizure may request a hearing before the City Council at the next Council meeting and apply to have the license reinstated.

133.09 DURATION. No license shall be issued or granted for a period of more than one (1) year.

133.10 EXCLUSION BY RESIDENTS. Any resident of the City who wishes to exclude peddlers or solicitors from premises occupied by him or her may place upon or near the usual entrance to such premises a permanent printed placard or sign bearing a notice similar to the following: "Peddlers and Solicitors Prohibited". Such placard shall be visible from the public right-of-way. No peddler shall enter in or upon any premises, or attempt to enter in or upon any premises, where placard or sign is placed and maintained. No person other than the person occupying such premises shall remove such placard or sign. Any licensee who violates said warning shall have their license immediately seized and prohibited from continuing with their sales activities within the City. The provisions of 133.08 as to appealing the seizure shall apply. Any person who violates a posted notice prohibiting peddlers and solicitors from entering the premises may also be charged with trespassing.

133.11 PENALTY FOR VIOLATIONS. Any person or organization covered by this chapter who peddles, solicits, or sells any goods or services without first obtaining a license or continues to peddle, solicit, or sell goods or services after having their license revoked shall be guilty of a simple misdemeanor punishable according to the provisions of the Code of Iowa.

(Ch. 133 – Ord. 2164 – May 11 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 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts
135.14 Solicitation On or Near Street or Highway Prohibited
135.15 Temporary Closing of Alleys

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 provisions of Chapter 155 (PROW Management) of this Code of Ordinances.

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

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

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

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

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

promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

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

135.14 SOLICITATION ON OR NEAR STREET OR HIGHWAY PROHIBITED. No person(s) shall be on or be within ten (10) feet of the traveled portion of a street, highway, alley or public right-of-way and solicit, or attempt to solicit employment, business or contributions from any occupant of any vehicle or person traveling on a street, highway, alley or public right-of-way. ***(Ord. 2051 – Sep. 05 Supp.)***

135.15 TEMPORARY CLOSING OF ALLEYS. The Public Works Director may from time to time temporarily close alleys due to weather or surface conditions that have or could result in damage to the alleyways. The closings shall be made by written directive and a copy thereof delivered to all residences and businesses affected. The Public Works Director will set the time frame for such closings. All notices will be given at least 7 days before they take effect, unless emergency conditions exist, in which case an immediate closing will be permitted, followed by written notice of the closing.

(Ord. 2105 – Aug. 07 Supp.)

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
136.04 Responsibility for Maintenance – Liability of Abutting Property Owners
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 Encroaching Steps
136.13 Openings and Enclosures
136.14 Fires or Fuel on Sidewalks
136.15 Defacing
136.16 Debris on Sidewalks
136.17 Merchandise Display
136.18 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. "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.

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

3. "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.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owner(s) to remove snow, ice and accumulation thereof promptly from sidewalks. If a property owner does not remove snow, ice or accumulations thereof within twenty-four (24) hours for commercial property owners and forty-eight (48) hours for residential owners of the cessation of the storm, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. No specific notice will be given to the property owner other than by the general notice to be published no earlier than November 1 and not later than November 30 of each year, the Director of Public Safety shall publish, once each week for three consecutive weeks in the official newspaper of the City, a notice of the requirements of this chapter and the penalties for failure to comply with this

chapter. The notice shall also state that unless complied with, the Director of Public Safety shall cause said snow, ice and accumulations to be removed and the cost thereof will be taxed against the real estate. The time limitations shall commence at 8:00 a.m. following cessation of the storm in the event the storm ends during the hours of 6:00 p.m. to 7:59 a.m. for purposes of calculating when said requirement must be completed. The cost of removal of snow, ice and accumulations thereof will be set by resolution of the Council.

(Ord. 2208 – Dec. 14 Supp.)

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

136.04 RESPONSIBILITY FOR MAINTENANCE – LIABILITY OF ABUTTING PROPERTY OWNERS. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. The abutting property owner shall be liable for any injuries and/or damages that result from any defect resulting from improper maintenance of or failure to repair any public sidewalk by the abutting property owner located in the area described herein. Liability shall be with the abutting property owner whether or not they have received any prior notice from the City as to the existence of any defect or need to repair said defect.

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

(Ord. 2157 – May 10 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.

1. A property owner desiring to remove, reconstruct or install a sidewalk in front of or along his or her property shall first procure a permit therefor from the City Building Official. No person other than those under contract with the City shall remove, reconstruct or install

any permanent sidewalk within the City without first obtaining a permit from the City. The application for such permit shall be in writing, stating the name and owner of the property and a description of the property. No permit shall be granted for more than thirty (30) days or for a time extending beyond the time fixed in any notice to reconstruct or install permanent sidewalks. Whenever a sidewalk is removed by a property owner, it must be replaced within thirty (30) days unless the property owner applies to and obtains permission of the Council to delay replacement or to abandon the sidewalk.

2. A person applying for a building permit for the purpose of erecting a new structure for occupancy, business or industrial usage shall also apply for a sidewalk and driveway permit covering all the sidewalk and that portion of the driveway in the street right-of-way, which applies to the same premises as in the building permit, if a full sidewalk or driveway is not already located thereon. Such application shall include the full frontage on the street side of all lots and in the case of corner lots shall include both street sides of said lots. A sidewalk permit can be appealed by submitting a letter to the City, requesting that the sidewalk permit at a named location be appealed and with specific reasons why the requirement should be waived. The Public Safety and Transportation Committee of the Council will hear the appeal and will make the final recommendation to the Council on the question. Appeals for business or industrial usage will take place through the Site Plan process. No additional charge will be required. Driveways from the property line to the street shall be constructed according to the specifications on file in the office of the Building Official.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be in accordance with the specifications and standards on file in the office of the Building Official.

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 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.

136.13 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.

136.14 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.

136.15 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)

136.16 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])

136.17 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.

136.18 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.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Notice of Vacation Hearing
137.03 Findings Required
137.04 Disposal of Vacated Streets or Alleys
137.05 Disposal by Gift Limited
137.06 Property Owner Request for Vacation

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 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.

137.03 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.

137.04 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)

137.05 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])

137.06 PROPERTY OWNER REQUEST FOR VACATION. One or more property owners whose property abuts a street or alley may file a petition with the Clerk describing the location of the street or alley and listing their addresses and requesting that the street or alley be vacated and sold. The petition shall be accompanied by cash or check in an amount as established by Council resolution. Said amount is nonrefundable, unless the Council refuses

to proceed as stated below. Said amount covers the costs of publication of notice of vacation, appraisal fees and legal fees and will not apply toward the purchase price of said vacated street or alley.

1. The Clerk, upon receipt of such petition and deposit, shall deliver a copy of the petition to the Planning and Zoning Commission. The Commission shall consider the petition according to its rules and standards and report its approval or disapproval to the Council.

2. Upon receiving the report of the Commission, the Council shall consider the report and petition. If the Council accepts the report, the Council shall direct the Clerk to obtain an appraisal for street or alley in question.

3. Upon completion of the appraisal, the applicant shall be notified of the appraised price of the land being considered for sale. The applicant shall accept the appraisal in writing or make a counter offer in writing. If the applicant agrees to purchase the ground for the appraised price, the Council shall proceed with vacation and sale of the land. If the applicant makes a counter offer other than the appraised price, the Council and applicant must reach an agreement as to what the sale price shall be and only then shall the Council proceed to vacation and sale of the land.

4. Upon agreement of the purchase price the Council shall direct the Clerk to set a date for a hearing as to whether the City shall vacate the street or alley by ordinance and direct the Clerk to public notice of such hearing according to the requirements of the Iowa statutes. On the date of such hearing, after considering any objections to the vacation and sale, the Council may pass an ordinance authorizing the vacation and pass a resolution approving the sale and direct that the City Attorney draw up a quit claim deed to the purchaser. The purchaser shall be required to pay over the balance of the purchase price prior to consideration of this resolution by the Council.

5. The purchaser shall execute an easement agreement drawn up by the City Attorney back to the City for all easements of record and public utilities and services. This shall be done prior to turning over the quit claim deed to the purchaser.

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.

ORDINANCES NO:

46	427	602	839	981	1086	1261	1519
109	430	604	841	982	1114	1264	1535
242	432	606	844	993	1151	1274	1564
251	459	619	847	1006	1152	1327	1568
262	475	639	897	1010	1153	1335	1582
360	476	657	901	1016	1156	1349	1601
376	492	708	911	1018	1164	1357	1602
379	501	777	922	1020	1166	1363	1621
385	504	785	924	1021	1174	1370	1626
387	508	791	925	1022	1190	1384	1636
393	579	801	932	1023	1218	1393	1639
399	580	802	933	1043	1227	1426	
411	581	826	943	1058	1228	1458	
420	590	832	948	1059	1253	1478	
423	601	836	979	1067	1260	1482	

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
1685	November 5, 1990	1927	December 4, 2000
1708	June 17, 1991	1931	December 21, 2000
1721	September 16, 1991	1932	January 2, 2001
1724	November 4, 1991	1960	February 19, 2002
1741	November 3, 1992	1971	August 19, 2002
1760	September 20, 1993	1972	August 19, 2002
1774	April 4, 1994	1974	September 3, 2002
1785	August 1, 1994	1975	September 3, 2002
1826	November 4, 1996	1976	September 16, 2002
1842	August 5, 1996	1999	September 2, 2003
1861	June 1, 1998	2014	February 17, 2004
1873	October 5, 1998	2022	April 19, 2004
1881	January 4, 1999	2032	September 13, 2004
1890	June 7, 1999	2039	November 1, 2004
1900	October 4, 1999	2041	November 1, 2004
1901	November 1, 1999	2042	November 15, 2004
1906	April 3, 2000	2054	March 7, 2005
1907	May 1, 2000	2055	April 4, 2005
1913	July 3, 2000	2061	July 18, 2005
1914	July 17, 2000	2063	September 19, 2005
1925	December 4, 2000	2071	October 3, 2005

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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.

ORDINANCES NO:

588	949	1000	1091	1244	1389	1495	1641
591	957	1007	1134	1270	1401	1505	1642
593	973	1008	1150	1356	1418	1522	1650
624	975	1019	1182	1361	1425	1594	
656	999	1056	1230	1369	1448	1628	

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
1735	June 1, 1992		
1748	March 15, 1993		
1795	August 21, 1995		
1798	October 16, 1995		
1810	July 1, 1996		
1843	October 6, 1997		
1905	March 20, 2000		
1947	August 20, 2001		
1973	August 19, 2002		
2024	May 3, 2004		
2069	September 19, 2005		
2092	November 20, 2006		
2093	November 20, 2006		
2094	November 20, 2006		
2095	November 20, 2006		

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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. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.

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 ordinance, 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 Boone, 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 amendment 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. No amendment to this chapter which involves naming or changing the name of a

street shall become effective until after such change and entry has been made on said map.

EDITOR'S NOTE

The following ordinances, not codified herein, are specifically saved from repeal and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
435			
913			
940			
1063			
1068			
1268			
1272			
1332			
1417			
1942	July 16, 2001		

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility

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

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

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

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

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

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

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, on the Primary Road System extension improvement, Project No. F-902, Primary Road No. 164 within the City, described as follows:

From Station 215+96 to Station 267.67.3

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-902, on file in the office of the Clerk.

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

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.

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CHAPTER 150

TREES

150.01 Definitions
150.02 Enforcement
150.03 Street Tree Species
150.04 Spacing
150.05 Distance from Curb and Sidewalk
150.06 Distance from Street Corners, Alleys and Fire Plugs
150.07 Utilities
150.08 Permits for Planting or Removal Required
150.09 Public Tree Care
150.10 Pruning and Corner Clearance
150.11 Removal of Stumps
150.12 Visibility at Intersections
150.13 Flowers on the Right-of-way
150.14 Abuse or Mutilation of Public Trees
150.15 Penalty
150.16 Interference with Urban Forester
150.17 Funds Received for Damage or Loss of Trees
150.18 Appeals

150.01 DEFINITIONS. For use in this chapter, the following definitions are given.

1. "Corner lot" means a lot at all intersecting streets and on curves of a continuous street.

2. "Large tree" means any tree with a mature height of more than thirty (30) feet.

3. "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned and operated by the City as a park, or to which the public has free access as a park.

4. "Parking" means the area between the curb or curb line and sidewalk or sidewalk line.

5. "Shrub" means any multiple stemmed woody plant.

6. "Small tree" means any tree with a mature height of fifteen (15) to thirty (30) feet.

7. "Street trees" means and includes trees on land lying between property lines on either side of all streets, avenues or ways within the City.

8. "Tree" means a single stemmed woody plant with a mature height of a minimum of fifteen (15) feet.

9. "Urban forester" means the Director of Parks or his or her designee.

150.02 ENFORCEMENT. For purposes of enforcement of any regulations established in this chapter, the urban forester is hereby designated as the person responsible for enforcing all regulations established herein. All tree trimmers, as defined in §129.01 of the Boone Municipal Code, shall be required to follow the International Society of Arboriculture Standards when trimming trees. If a party does not know what the standards require, they are instructed to obtain a copy of the standards prior to commencing any trimming in the City.

(Ord. 2160 – May. 11 Supp.)

150.03 STREET TREE SPECIES. The following list constitutes the street tree species not allowed for planting along City streets:

Acer Negundo	Box Elder
Catalpa Speciosa	Catalpa
Populus	Poplars and Cottonwoods
Salix	Salix
Ulmus	Elms (except Elm hybrids resistant to Dutch Elm disease)
Acer Saccharinum	Silver Maple
Any tree in the order *Coniferales*	

A current list of street tree species recommended for planting along City streets is kept on file at the urban forester's office.

150.04 SPACING. Small trees shall not be planted closer than twenty (20) feet from one another or closer than forty (40) feet from a large tree. Large trees shall not be planted closer than forty (40) feet from one another.

150.05 DISTANCE FROM CURB AND SIDEWALK. No trees shall be planted on parkings that are less than ten (10) feet wide. Small trees shall be planted no closer than six (6) feet to the curb or curb line and no closer than four (4) feet to the sidewalk or sidewalk line. Large trees shall be planted no closer than six (6) feet to the curb or curb line and no closer than four (4) feet to the sidewalk or sidewalk line. Whenever possible, trees shall be centered between the curb or curb line and the sidewalk or sidewalk line.

150.06 DISTANCE FROM STREET CORNERS, ALLEYS AND FIREPLUGS. No street trees shall be planted closer than twenty (20) feet to the intersecting lot lines of a corner lot. No street trees shall be planted within ten (10) feet of any alley or drive. No street trees shall be planted closer than ten (10) feet of any fireplug or utility pole.

150.07 UTILITIES. No street trees other than those species listed as small trees as approved by the urban forester may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line or other underground utility line or pipe.

150.08 PERMITS FOR PLANTING OR REMOVAL REQUIRED. No street tree shall be planted unless a permit is obtained from the urban forester first. All species of plantings must be specified and noted on the permit as well as the location of said plantings. Any plantings done prior to issuance of a permit are subject to removal by order of the urban forester if in violation of

any regulation contained in this chapter and will require the immediate acquisition of a permit. No living tree shall be destroyed or removed from the parking unless a permit is obtained.

150.09 PUBLIC TREE CARE. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City may remove any street tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of such trees is in accordance with Section 150.03 through 150.08 of this chapter.

(Ord. 2205 – Dec. 14 Supp.)

150.10 PRUNING AND CORNER CLEARANCE. Every owner or occupant of real property bordering upon any street, alley or public place shall keep the branches of any tree overhanging any street or right-of-way within the City pruned. Any branches or trees touching or in close proximity to any street light, power line, phone line or cable television line shall be pruned only by a licensed tree trimmer. There shall be a clear space of fifteen (15) feet above the surface of any street or alley and a clear space of ten (10) feet above the surface of any right-of-way grounds or sidewalk.

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

150.12 VISIBILITY AT INTERSECTIONS. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of intersection of the right-of-way lines. If a violation is discovered by the urban forester, a twenty (20) day written notice shall be given to the property owner or occupant to remedy the violation. The notice shall specify the exact extent of the violation and provide that the property owner or occupant may appeal to the Policy and Administration Committee if said owner or occupant disagrees with the urban forester's notice, pursuant to Section 150.18.

150.13 FLOWERS ON THE RIGHT-OF-WAY. Shrubs and flowers may be grown on public right-of-way if maintained under two (2) feet above ground level and if they present no safety hazard. No vegetables may be planted on public right-of-ways.

150.14 ABUSE OR MUTILATION OF PUBLIC TREES. It is unlawful as a normal practice for any person or City department to top any street, park or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Council. Unless specifically authorized by the urban forester, no person shall intentionally damage, cut, carve, transplant or remove any tree on public property; attach any rope, wire, nail, advertising poster, or other contrivance to any tree on public property; allow any gaseous liquid or solid substance that is harmful to such trees to come in contact with them or with their roots; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on public property. The urban forester shall assess to the person who causes damage to or loss of City trees the damage value based on estimate figures using International Society of Arboriculture Standards.

150.15 PENALTY. Any person violating any provision of this chapter, in addition to being subject to the penalty for such violation, shall also comply in all respects with any previous orders or notices issued by the urban forester within five (5) days of conviction or plea.

150.16 INTERFERENCE WITH URBAN FORESTER. It is unlawful for any person to prevent, delay or interfere with the urban forester while engaging in or participating in any planting, cultivation, mulching, pruning, spraying, removing or inspecting any street trees, park trees or other trees, shrubs or other plantings on public property as specified in this chapter.

150.17 FUNDS RECEIVED FOR DAMAGE OR LOSS OF TREES. Any funds received or collected by the City for damage or loss of street or park trees shall be placed in a City Tree Trust Fund and designated for the purchase of replacement street and park trees.

150.18 APPEALS. A decision of the urban forester may be appealed to the "Public Safety and Transportation Committee." All appeals must be made in writing, addressed to the chairperson of the committee and copies to the urban forester. The committee is then required to hold a hearing on the appeal within thirty-five (35) days of the receipt of said appeal. Written notice of the hearing

date and time is to be mailed to the appellant and the urban forester ten (10) days prior to said hearing date. The committee shall then make a written finding within forty-five (45) days of the hearing date, with a copy to the appellant and urban forester. The committee recommendation shall be presented to the Council for a final decision. The Council may abide by the committee's recommendation or make its own decision. However, in no case will the Council conduct further hearings on such matters. The decision of the Council will be final. If the Council finds that it agrees with the urban forester, the Council shall order the urban forester to proceed with remedying any violations at the expense of the property owner or occupant.

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CHAPTER 151

NOXIOUS WEEDS AND GROWTHS

151.01 Definitions
151.02 Direction and Control by Director of Public Safety or His Designee
151.03 Declaration as a Nuisance
151.04 Notice of Eradication Requirements
151.05 Entering Land to Destroy Weeds or Growths
151.06 Loss or Damage to Crops or Property

151.01 DEFINITIONS. As used in this chapter, "noxious weeds and growths" include the following:

1. Primary noxious weeds or growths, which include quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), Canada thistle (*Cirsium arvense*), bull thistle (*Cirsium lanceolatum*), European morning glory or field bindweed (*Convolvulus arvensis*), horse nettle (*Solanum carolinense*), leafy spurge (*Euphorbia Esula*), perennial pepper-grass (*Lepidium draba*), Russian knapweed (*Centaurea repens*), buckthorn (*Rhamnus*, not to include *Rhamnus frangula*, and all other species of thistles belonging in genera of *Cirsium* and *Carduus*.)

2. Secondary noxious weeds or growths, which include butterprint (*Abutilon theophrasti*) annual, cocklebur (*Xanthium commune*) annual, wild mustard (*Brassica arvensis*) annual, wild carrot (*Daucus carota*) biennial, buckhorn (*Plantago lanceolata*) perennial, sheep sorrel (*Rumex acetosella*) perennial, sour dock (*Rumex crispus*) perennial, smooth dock (*Rumex altissimus*) perennial, poison hemlock (*Conium maculatum*), multiflora rose (*Rosa multiflora*), wild sunflower (wild strain of *Helianthus annus L.*) annual, puncture vine (*Tribulus terrestris*) annual, teasel (*Dipsacus*) biennial, and shattercane (*Sorghum bicolor*) annual. The multiflora rose (*Rosa multiflora*) is not considered a secondary noxious weed or growth when cultivated for or used as understock for cultivated roses or as ornamental shrubs in gardens, or in the City when the Council has by resolution declared it not to be a noxious weed or growth. Shattercane (*Sorghum bicolor*) is not considered a secondary noxious weed or growth when cultivated or in the City when the Council has by resolution declared it not to be a noxious weed or growth.

Noxious weeds or growths also include any grasses growing over twelve (12) inches tall or other growths declared to be noxious by the Council by resolution.

151.02 DIRECTION AND CONTROL BY DIRECTOR OF PUBLIC SAFETY OR HIS DESIGNEE. The Director of Public Safety or his designee shall supervise the control and destruction of all noxious weeds or growths whenever found in the City, including those growing within the limits of cemeteries, along streets and highways as well as railroad right-of-way or

property. The Director of Public Safety or his designee may enter upon any land in the City at any time for the performance of the Director of Public Safety or his designee's duty, and shall hire the labor and equipment necessary, subject to the approval of the Council.

151.03 DECLARATION AS A NUISANCE. Any noxious weeds or growths found growing in any lot or tract of land in the City are hereby declared to be a public nuisance, and it is unlawful to permit any such weeds or growths to grow or remain in any such place. Each owner and each person in the possession or control of any lands shall cut, burn or otherwise destroy, in whatever manner may be prescribed by the Council or Director of Public Safety or his designee, all noxious weeds or growths thereon as defined in this chapter at such times in each year and in such manner as shall be prescribed by order of the Council or Director of Public Safety or his designee, and shall keep said lands free from such growth of any other weeds or growths which render the streets or highways adjoining said land unsafe for public travel.

151.04 NOTICE OF ERADICATION REQUIREMENTS. No earlier than April 1 and not later than April 30 of each year, the Director of Public Safety or his designee shall publish, once each week for three consecutive weeks in the official newspaper of the City, a notice of the requirements of this chapter and the penalties for failure to comply with this chapter. The notice shall also state that unless complied with, the Director of Public Safety of his designee shall cause said weeds or growths be destroyed or cut and the cost thereof will be taxed against the real estate on which the noxious weeds or growths are destroyed. Said notice shall specifically state that as to grasses growing over twelve (12) inches tall no further notice will be given to the property owner or person in possession of the property and that failure to comply will result in the work being done immediately by the city. ***(Ord. 2207 – Dec. 14 Supp.)***

151.05 ENTERING LAND TO DESTROY WEEDS OR GROWTHS. In case of a substantial failure, except in cases of grasses growing over twelve (12) inches tall which will be cut immediately, by the owner or person in possession or control of any land to comply with any order of destruction pursuant to the provisions of this chapter, the Director of Public Safety or his designee shall have full power and authority to enter upon any land within the City for the purpose of destroying noxious weeds or growths. Such entry may be made without the consent of the landowner or person in possession or control of the land but actual work of destruction shall not be commenced until five (5) days after the service of notice in writing on the landowner and on the person in possession or in control of the land. The notice shall state the facts as to failure of compliance with the City program of weed or growth destruction order made by the Council and shall be served in the same manner as an original notice

except as hereinafter provided. The notice may be served by the Director of Public Safety or his designee provided, however, that service on persons living temporally or permanently outside the City may be made by sending the written notice of noncompliance by certified mail to said person at the last known address to be ascertained, if necessary, from the last tax list in the County Treasurer's office. Where any person owning land within the City has filed a written instrument in the office of the County Auditor designating the name and address of such person's agent, the notice herein provided may be served on that agent. In computing time hereunder it shall be from the date of service as evidenced on the return or if made by certified mail, from the date of mailing as evidenced by the certified mail book at the post office where mailed. In case of a substantial failure to comply by the date prescribed in any order of destruction of weeds or growths made pursuant to this chapter. The Director of Public Safety or his designee may enter upon the land and cause the weeds or growths be destroyed. In addition to all costs of destruction, a civil penalty. as set by resolution of the City Council as a deterrent against subsequent future violations by the property owner or occupant, will be charged and collected. In the event these costs and penalties are not paid upon billing, they shall be assessed against the property. ***(Ord. 2207 – Dec. 14 Supp.)***

(Sections 151.02 – 151.05 – Ord. 2181 – Apr. 13 Supp.)

151.06 LOSS OR DAMAGE TO CROPS OR PROPERTY. The loss or damage to crops or property incurred by reason of such destruction shall be borne by the title holder of said real estate, unless said real estate shall be sold under contract whereby possession has been delivered to the purchaser, in which event such purchaser shall bear such loss or damage, excepting where a contract has been entered into providing a different adjustment for such loss or damage.

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CHAPTER 152

STORM WATER CONTROL

152.01 Purpose
152.02 Acceptability
152.03 Definitions
152.04 Design Criteria
152.05 Construction
152.06 Maintenance
152.07 Easements
152.08 Procedure

152.01 PURPOSE. The purpose of this chapter is to establish procedures to control the flow of storm water from developing areas so as to maintain the rate of the flow in natural or manmade channels equal to the rate of flow from those areas in their undeveloped state, so as to provide for the safety, health and well-being of those living within the developing area as well as those downstream who will be affected by its development.

152.02 ACCEPTABILITY. The provisions of this chapter are applicable to:

1. All new residential, commercial and industrial developments in excess of two (2) acres.

2. Any new development, less than two (2) acres, where the percentage of the impervious area of the lot is fifty percent (50%) or greater.

3. Any new development, less than two (2) acres, which in the opinion of the City Engineer lacks an adequate outlet for the passage of storm waters.

152.03 DEFINITIONS. When used in this chapter, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

1. "By-pass channel" means a channel formed in the topography of the earth's surface to carry storm water runoff through a specific area.

2. "Control structure" means a structure designed to control the flow of storm water runoff that passes through it during a specific length of time.

3. "Development" means the improvement of the land from its natural state to one providing for residential, industrial or commercial use.

4. "Dry bottom storm water storage area" means a facility designed to be normally dry and contain water only when excess storm water runoff occurs.

5. "Excess storm water" means that portion of storm water runoff which exceeds the transportation capacity of storm sewers or natural drainage channels serving a specific watershed.

6. "Natural drainage" means channels formed by the existing surface topography prior to changes made by unnatural causes.

7. "Safe storm drainage capacity" means the flow of storm water runoff that can be transported by a channel or conduit without causing a rise of the water surface over the conduit or adjacent to the channel.

8. "Storm water runoff" means the flow of water resulting from precipitation which is not absorbed by the soil or plant material.

9. "Storm water runoff release rate" means the rate at which storm water runoff is released from dominant to subservient land.

10. "Storm water storage areas" means areas designed to store excess storm water.

11. "Tributary watershed" means all of the area that contributes storm water runoff to a given point.

12. "Wet bottom storm water storage area" means a facility designed to be maintained as a pond or free water surface and which has the capacity to contain excess storm water runoff.

13. "'X'-year storm" means the average recurrence intervals within which a rainfall of given intensity and duration will be equaled or exceeded only once. A 100-year storm would have an intensity of rainfall which would, on the average, be equaled or exceeded only once in 100 years. This does not imply that it will occur in 100 years, or having occurred, will not happen again for 100 years.

152.04 DESIGN CRITERIA.

1. Preparation and Certification. The design of storm water control and/or detention facilities shall be prepared and certified by a registered engineer, familiar with storm water control and/or detention. Design calculations shall be made available to the City Engineer.

2. Release Rate. The release rate of storm water from any detention basin required under this chapter shall not exceed the storm water runoff rate from the drainage area as a totally grassed site during a five-year frequency storm. Applicants may claim a higher natural rate of runoff if documented by detailed computations to show that higher capacity exists in the natural outlets serving the area. However, only the "safe storm drainage capacity" of the conduit or channel may be included in these calculations. Design of the floodway system shall also take into

consideration control of storm water velocity to prevent erosion or other damage to the facility which will restrict its primary use. Depths of flow shall be consistent with the "safe storm drainage capacity" of the facility and detention or channel configurations shall be totally under City control.

3. Detention Requirements. The required volume of storm water detention shall be that necessary to handle the runoff of a 100-year rainfall, for any and all durations, from the drainage area tributary to the storm water storage area based on full development of said tributary area, less the volume discharge during the same duration at the approved release rate. The storm water release rate shall be considered when calculating the storm water storage capacity and the control structure shall be designed to maintain a relatively uniform rate regardless of the depth of storm water in the storm area. Thus, the "required detention storage" (RDS) will be that found to be the most critical resulting from the inflow from the runoff of a fully developed tributary area from a 100-year storm and outflow of the five-year storm with the same area in its urbanized or natural state, totally grassed. Also, see subsection 2 above. Detention storage may be provided as a "dry bottom" or "wet bottom" storm area.

A. Dry bottom storm water storage areas shall be designed to serve a secondary purpose for recreation, open space or other types of uses that will not be adversely affected by intermittent flooding.

(1) A method of carrying the low flow through these areas shall be provided in addition to a system of drains to prevent soggy areas. Both shall be provided with an outlet to a natural channel or storm sewer with adequate capacity as described in subsection 4 of this section. Dry bottom storm water storage areas should be designed to drain completely within twenty-four (24) hours after a storm.

(2) Outlet control structures shall be designed as simply as possible and shall require little or no attention for proper operation. Each storm water storage area shall be provided with a method of emergency overflow in the event that a storm in excess of the 100-year frequency storm occurs. This emergency overflow facility shall be designed to function without attention and shall become part of the "natural" or surface channel system described in subsection 4. Hydraulic calculations shall be submitted to substantiate all design features.

(3) Both outlet control structure and emergency overflow facilities shall be designed and constructed to fully protect the public health, safety and welfare. Existing downstream hazards (garages, houses) must be considered. Storm water runoff velocities shall be kept at a minimum and turbulent conditions at an outlet control structure will not be permitted without complete protection for the public safety. The use of fences shall be kept to a minimum and used only as a last resort when no other method is feasible. All impounding structures within the City designed to be over ten (10) feet in height or designed to store more than 5 ac-ft. must be approved by the Department of Natural Resources (DNR). Complete engineering plans must be submitted to DNR for their review.

(4) Paved surfaces that are to serve as storm water storage areas and rooftop storage shall be designed with permanent type control inlets and retaining or parapet walls to contain runoff on the surface. Emergency outflow areas shall be provided.

B. Wet bottom storm water storage areas shall be designed with all of the items required for dry bottom storm water storage areas, except that the provisions of paragraph A(1) of this subsection shall not be required. However, the following additional conditions shall be complied with:

(1) Water surface area shall not exceed 1/15 of the tributary drainage area.

(2) Facilities shall be provided to lower the pond elevation by gravity flow for cleaning purposes and shoreline maintenance. Shoreline protection shall be provided to prevent erosion from wave action.

(3) Minimum normal water depth shall be four (4) feet. If fish are to be maintained, some portion of the pond area should be a minimum of nine (9) feet deep.

(4) Control structures for storm water release shall be designed to operate at full capacity with only a minor increase in water surface level. Hydraulic calculations shall be submitted to the City Engineer to substantiate all design features.

(5) Only that portion of the detention area above the normal water level shall be used in calculating the storage

capacity. Wet bottom storm water storage areas shall be designed to provide a storage duration not exceeding twenty-four (24) hours after a storm.

4. By-pass Channel. A "natural" or surface channel system shall be designed with adequate capacity to convey through the development the storm water runoff from all tributary upstream areas. This "by-pass" channel shall be designed to carry the peak rate of runoff from a 100-year storm, assuming all storm sewers are blocked and the upstream areas fully developed.

152.05 CONSTRUCTION.

1. Where development of a property presents the threat of flooding or damage by flash runoff to downstream residents, the facilities for storm water runoff control shall be constructed as a part of the first phase of construction of that project.

2. The construction of the storm water control system shall be accomplished as part of the cost of land development. If the amount of storage capacity can be increased to provide benefit to the City, negotiations for public participation in the cost of development shall be initiated.

3. All flood control items such as earthen embankments, conduits, outlet structures, flood control structures, spillways, by-pass channels, etc., shall be built as permanent facilities and all materials and their manner of construction shall be assembled to accomplish as much permanence as is possible.

152.06 MAINTENANCE. All plans submitted for storm water detention systems shall describe an adequate procedure of normal maintenance for the detention system. Any failure of the storm water detention system, due to inadequate normal or capital maintenance, shall be the responsibility of the owner of the property on which the detention system is located. It shall also be the property owner's responsibility to remedy any negligence in maintenance that resulted in the failure of the system. The submittal of plans for such a system or the purchase of property on which such system is located shall be deemed as acceptance of responsibility for normal and capital maintenance of the system.

152.07 EASEMENTS. Drainage easements shall be provided for all conduits and those by-pass channels where the 100-year runoff exceeds one (1) cubic foot per second.

152.08 PROCEDURE. Plans, specifications and all calculations for storm water runoff control shall be submitted for review and approval prior to the approval of a final plat (in the case of a subdivision or planned unit development) or prior to approval of a site plan (in case of commercial or industrial construction). No certification of occupancy for any building in the development will be issued until the storm detention facilities are constructed, inspected and approved.

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CHAPTER 155

PROW MANAGEMENT

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155.01 FINDINGS AND PURPOSE.

1. The City's street and alley PROW is owned or controlled by the City primarily for the purpose of pedestrian and vehicular passage and for the City's provision of essential public safety services, including police, fire and emergency medical response services, and public health services, including sanitary sewer, water, and storm drainage services; all other purposes are deemed subservient.

2. In order to provide for the health, safety and well-being of its citizens, as well as to insure the structural integrity of its streets and other infrastructure, the City strives to keep its PROW in a state of good repair and free from unnecessary encumbrances; although the general population bears the financial burden for the upkeep of the PROW, a primary cause for the early and excessive deterioration of streets and other City infrastructure is frequent excavation of the PROW by persons whose equipment is located therein.

3. The City recognizes that it holds PROW within its geographical boundaries as an asset in trust for its citizens; the City and other public entities have invested substantial public funds to acquire, build, and maintain PROW and City infrastructure located therein; the City also recognizes that some persons, by placing their equipment in the PROW and charging certain City residents and some nonresidents for goods and services delivered thereby, are burdening for private gain this property held by the City for the public good; although such services are often

necessary or convenient for various groups of resident and nonresident customers, such persons receive revenue and/or profit as a consequence of this burden on PROW.

4. The demands upon City PROW space are virtually unlimited but the space itself is finite; burdens on City PROW will only increase as competition for retail utility customers grows, providers multiply, and new technologies are developed and installed.

5. As City PROW space is consumed, acquisition of new PROW has to be anticipated and provision has to be made for funding such acquisition in a manner that spreads the costs as fairly among current and future registrants as is reasonably practicable.

6. The City is obliged to devote substantial City staff and resources to balancing and reconciling competing infrastructure needs with the fundamental governmental function of maintaining regular and convenient public access to safe and structurally sound City streets and other City facilities.

7. The cost of restoration efforts that are abandoned or insufficiently performed by PROW registrants has to be recovered.

8. Each intrusion into the City's PROW can damage and shorten the useful life of overlying streets, alleys, sidewalks and other City facilities to the detriment of City residents who are not necessarily customers or beneficiaries of the entity causing the particular intrusion.

9. A responsible City program of PROW management should seek to recover the City's costs associated with PROW restoration, administration, and consumption/acquisition, hereinafter collectively called "PROW management program costs," from franchised and franchiseable utilities, non-franchiseable telephone utilities including but not limited to municipal telephone utilities, and other private PROW occupiers.

10. Franchised utilities that pay franchise fees already contribute to the City's PROW management program costs.

11. Burdens on and consumption of PROW by municipal utilities and departments of the City constitute the City's management of its own property.

12. PROW management program costs attributable to PROW intrusions accomplished by franchised or franchiseable utilities that do not pay franchise fees, non-franchiseable telephone utilities including but not limited to municipal telephone utilities and other private PROW occupiers should be recovered from the entity causing each intrusion,

and their customers, and should not fall generally upon City taxpayers as a whole.

13. The purposes of this chapter are:

A. With respect to franchised utilities that pay franchise fees, to ratify and confirm existing franchise agreements and franchise fees, and to clarify their regulatory obligations consistent with, and to the extent that such matters are not addressed by, existing franchise agreements.

B. With respect to franchised or franchiseable utilities that do not pay franchise fees, non-franchiseable telephone utilities including but not limited to municipal telephone utilities, and other private PROW occupiers, to confirm City authority to regulate their activity relative to City PROW, to specify procedures for their application for City permission to locate and operate facilities in City PROW, to identify and quantify all costs of the City's PROW management, and to provide for the recovery of all such costs specifically from the entity causing each intrusion, or their customers, so that such costs do not fall generally upon City taxpayers as a whole.

C. To ensure that all users of the PROW are subject to the same provisions and fees. The provisions of this chapter shall be applied in a competitively neutral and non-discriminatory manner.

155.02 APPLICABILITY OF CHAPTER.

1. All existing franchise agreements and fees in existence as of the effective date of the ordinance codified in this chapter are hereby ratified and confirmed.

2. Franchised utilities that pay a franchise fee are subject to all regulatory provisions of this chapter to the extent that such provisions are in addition to and not in conflict with existing franchise agreements; applicable fees shall be waived in recognition of the payment of the franchise fees.

3. Franchised and franchiseable utilities that do not pay franchise fees, non-franchiseable telephone utilities including but not limited to municipal telephone utilities, other private PROW occupiers including but not limited to gas, electric, and cable television providers, and work done to maintain City-provided services are subject to this chapter.

155.03 DEFINITIONS. The following definitions are given for use in this chapter:

1. "Administration cost" means all direct and indirect City staff and material cost of administration associated with the City's PROW management program, including but not limited to registering applicants; issuing, processing, and verifying PROW license applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving registrant facilities during PROW work; determining the adequacy of PROW restoration; providing notice of violations or needed corrective action, and revoking PROW licenses. The administration costs shall be recouped through a set fee, subject to periodic review by the Council.

2. "Applicant" means any person requesting permission to intrude upon, excavate, obstruct or consume City PROW.

3. "Cable television utility" means a franchiseable utility as defined by FCC Regulations.

4. "City-provided services" means any utility provided to citizens by the City, including but not limited to sewer and water service.

5. "Construction performance bond" means any form of financial guarantee authorized under Iowa Law for assuring full performance of public construction contracts.

6. "Delay penalty" is the penalty imposed as a result of unreasonable delays in PROW construction.

7. "Department" means the Department of Public Works of the City.

8. "Department Inspector" means any person authorized by the PROW administrator to carry out inspections related to the provisions of this chapter.

9. "Emergency" means a condition that (i) poses a clear and immediate danger to life or health, or of a significant loss of property; or (ii) requires immediate repair or replacement of facilities in order to restore service to a customer.

10. "Equipment" means any tangible asset used to install, repair or maintain facilities in any PROW.

11. "Excavate" means to dig, place, repair, construct or bury anything in, on or under the PROW, or in any way remove or physically disturb or penetrate any part of the PROW.

12. "Excavation license" means the license which, pursuant to this chapter, must be obtained before a person may excavate in a PROW. An excavation license allows the holder to excavate that part of the PROW described in such license.

13. "Excavation license fee" means money paid to the City by an applicant to cover the costs as provided in Section 155.13(1) below. The fee shall be a set fee, subject to periodic review by the Council.

14. "Facility" or "facilities" means any tangible asset in the PROW required to provide utility service.

15. "Franchisee" means any person who has been granted a franchise by the City which allows the installation of infrastructure within City PROW or who is hereafter granted a franchise which allows installation of infrastructure within City PROW.

16. "Intrusion" means any disturbance of the PROW.

17. "Licensee" means any person to whom a license to excavate or obstruct a PROW has been granted by the City under this chapter.

18. "Local representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

19. "Obstruct" means to impede or hinder the free and unrestricted use of PROW by others or to place any tangible object upon the surface of PROW so as to hinder free and open passage over that or any part of the PROW, or so as to effectively impede the free and unrestricted use of PROW by others.

20. "Patch" or "patching" means a method of pavement replacement for an excavation in the PROW. A patch consists of (i) the compaction of the subbase and aggregate base, and (ii) the replacement, in kind, of the existing pavement for a minimum of two (2) feet beyond the edges of the excavation in all directions.

21. "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, anyone who has been contracted to perform work on City-provided services, property owners, or any other legal entity.

22. "Private PROW occupiers" means utility companies not owned by the City, including but not limited to gas, electric, telecommunications and cable television.

23. "Probation" means the status of a person that has not complied with the conditions of this chapter.

24. "Probationary period" means one year from the date that a person has been notified in writing that such person has been put on probation.

25. "PROW"(see "public right of-way" below).

26. "PROW administrator" means the City Building Official.

27. "PROW license" means any one or more of the excavation license, the disruption license, or the tree well license, or irrigation system license, depending on the context, required by this chapter.

28. "PROW management program costs" means costs associated with a responsible City program of PROW management including costs associated with PROW degradation, restoration, administration, and consumption/acquisition.

29. "Public right-of-way" (PROW) means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the City has an interest, including other dedicated PROW for travel purposes and utility easements of the City. A PROW does not include the airwaves above a PROW with regard to cellular or other non-wire telecommunications or broadcast service.

30. "Registrant" means any person who (i) has or seeks to have its equipment or facilities located in any PROW, or (ii) in any way occupies or burdens, or seeks to occupy or burden, the PROW or place its facilities in the PROW; registrants include utilities that are franchised or franchiseable.

31. "Restoration cost" means the full cost of restoration of City infrastructure and PROW to as good or better condition than before an intrusion when such restoration is not accomplished, or is insufficiently accomplished, by the entity causing an intrusion; restoration cost is a PROW management program cost.

32. "Restore" or "restoration" means the process by which a PROW is returned to the same condition and life expectancy that existed before excavation in accordance with the *Urban Standard Specifications for Public Improvements* and *Urban Design Standards Manual*.

33. "Supplementary application" means an application made to excavate or obstruct more of the PROW than allowed in, or to extend, a license that had already been issued.

34. "Telecommunication PROW licensee" means a person owning or controlling a facility in the PROW, or seeking to own or control a facility in the PROW, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system and

telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility, a municipality, or a cooperative electric association, are not telecommunications PROW licensees for purposes of this chapter.

35. "Tree well" means any opening or cut in a sidewalk used for planting trees, whether covered by a grate or not.

36. "Undedicated portions of the ROW" means ROW that has been platted but not yet deeded or transferred to the City.

37. "Unused equipment" or "unused facilities" means equipment or facilities located in the PROW which has remained unused for six months and for which the registrant is unable to provide proof that it has either a plan to begin using that equipment within the next twelve (12) months or a potential purchaser or user of that equipment for the same purpose.

155.04 SCOPE. Except as may be specifically provided, the requirements of this chapter do not apply to municipal departments or to municipal utilities, in regard to payment of fees, except municipal telephone utilities.

155.05 ADMINISTRATION. The PROW administrator is the principal City official responsible for the administration of the PROW; of registration of registrants; of PROW licenses; of the franchising, licensing and leasing of PROW; and the ordinances related thereto; the PROW administrator may delegate any or all of the duties hereunder.

155.06 UTILITY COMMITTEE. The Utility Committee of the City Council is responsible for obtaining information and making recommendations to the Council regarding activities relative to the PROW.

155.07 REGISTRATION AND PROW OCCUPANCY.

1. Registration. Each person who occupies, burdens, or seeks to occupy or burden, the PROW or place any equipment or facilities in the PROW, including persons with installation and maintenance responsibilities by lease, sublease or assignment, or are contracted to perform work on City-provided services must register with the PROW administrator. Registration will consist of providing application information and paying a registration fee as established by the Council.

2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or utilize any facilities or any part thereof, in any PROW without first being registered with the PROW administrator.

3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a City ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the PROW between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to burden or occupy the PROW, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of Iowa's "One Call" law. Additionally, nothing herein constitutes a grant of permission to permanently locate plantings in the PROW, nor does the City waive any potential claims, counterclaims, crossclaims or interpleaders relative to persons putting plantings in the PROW that give rise to injuries or damages to others. The City may at any time require the removal or relocation of plantings at the owners' expense.

155.08 REGISTRATION INFORMATION. The information provided to the PROW administrator at the time of registration shall include, but not be limited to:

1. Each registrant's name, One Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

3. A certificate of insurance or self-insurance:

A. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Iowa, or a form of self-insurance acceptable to the PROW administrator;

B. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the PROW by the registrant, its officers, agents, employees and licensees, and (ii) placement and operation of facilities in the PROW by the registrant, its officers, agents, employees and licensees, including but not limited to protection against liability arising from completed operations, damage of underground facilities and collapse of property;

C. Naming the City as an additional insured as to whom the coverages required therein are in force and applicable and for whom defense will be provided as to all such coverages;

D. Requiring that the PROW administrator be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

E. Indicating comprehensive liability coverage, automobile liability coverage, worker's compensation and umbrella coverage established by the PROW administrator in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter.

The City may require a copy of the actual insurance policies. Minimum general liability insurance shall be $500,000.

4. If the person is a corporation, proof of corporate status satisfactory to the PROW administrator.

5. A copy of the person's order granting a certificate of authority from the Iowa Utility Board or other applicable State or Federal agency, where the person is lawfully required to have such certificate from said Board or other State or Federal agency.

The registrant shall keep all of the information listed above current at all times by providing to the PROW administrator information as to changes within fifteen (15) days following the date on which the Registrant has knowledge of any change. All notices required by this chapter shall be sent to the address contained on the registration form unless otherwise notified.

155.09 REPORTING OBLIGATIONS.

1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file any construction or major maintenance plans for the upcoming year for underground facilities with the PROW administrator. Routine maintenance is exempted from this requirement. Such plan shall be submitted using a format designated by the PROW administrator and shall contain the information determined by the PROW administrator to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of PROW.

A. The plan shall include but not be limited to locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project").

B. By January 1 of each year the PROW administrator will have available for inspection in the PROW administrator's office a composite list of all projects of which the PROW administrator has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

C. After February 1, each registrant may change any project requiring registration in its list of next-year projects, and must notify the PROW administrator of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

2. Registrants Limited to Projects Identified In Construction and Major Maintenance Plan. A registrant which does not file a construction or major maintenance plan with the PROW administrator as provided above may be denied PROW licenses to construct or emplace new equipment, or to engage in major maintenance of existing equipment, in the PROW during the one-year period succeeding the date upon which such plan was due; a registrant which seeks to undertake a project to construct or emplace new equipment in the PROW, or to undertake a major maintenance project as to existing equipment, which project is not identified in the construction and major maintenance plan for the year in which the registrant seeks to undertake the project, may be denied a PROW license for such project; this provision shall not apply to emergency repair projects or utility service extension projects which the registrant could not have anticipated for inclusion in its construction and major maintenance plan.

3. Additional Next-year Projects. Notwithstanding the foregoing, the PROW administrator will not deny an application for a PROW license for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

4. Registrants Which Own or Occupy Buildings Abutting City PROW. Registrants which own or occupy buildings abutting City PROW on either side thereof, and which have or desire to establish utility or telecommunications connections between such buildings, and whose utility or telecommunications equipment is or will be contained within ducts or tunnels which cross, rather than run parallel in, City PROW, or which have or will have less than 300 lineal feet of such ducts or tunnels in City PROW, are exempt from the requirement of submitting construction and major maintenance plans with respect to (i)

the construction of ducts or tunnels for such equipment, (ii) the maintenance of equipment within such ducts or tunnels, and (iii) the placement of additional utility or telecommunications equipment (pipes, wires, or cables) within such ducts or tunnels.

155.10 LICENSE REQUIREMENTS.

1. License Required. Except as otherwise provided in this chapter, no person may obstruct or excavate any PROW without first having obtained the appropriate PROW license from the PROW administrator to do so.

A. Excavation License. An excavation license is required by a registrant to excavate that part of the PROW described in such license and obstruction free and open passage over the specified portion of the PROW by placing facilities described therein, to the extent and for the duration specified therein.

B. Tree Well License. A tree well license is a license which allows the holder to construct a tree well in the PROW in the area between the property line and the back of the curb, provided such tree well has been approved as part of a site plan.

2. License Extensions. No person may excavate or obstruct the PROW beyond the date or dates specified in the license unless such person (i) makes a supplementary application for another PROW license before the expiration of the initial license, and (ii) a new license or license extension is granted.

3. Delay Penalty. Notwithstanding subsection 2 immediately above, the City shall establish and impose a delay penalty for unreasonable delays in PROW excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by Council resolution.

4. License Display. Licenses issued under this chapter shall be available at all times at the indicated work site and shall be available for inspection by the PROW administrator.

155.11 LICENSE APPLICATIONS. Application for a license is made to the PROW administrator. PROW license applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

1. Registration with the PROW administrator pursuant to this chapter.

2. Submission of a completed license application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

3. Payment of money due the City for:

A. License fees, estimated restoration costs and other management costs;

B. Any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the PROW or any emergency actions taken by the City;

C. Other fees, if applicable.

4. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing.

When an excavation license is requested for purposes of installing additional facilities, and the posting of a construction performance bond for the additional facilities is insufficient, the posting of an additional or larger construction performance bond, not to exceed 125% of the project cost, for the additional facilities may be required.

155.12 ISSUANCE OF LICENSE; CONDITIONS. If the applicant has satisfied the requirements of this chapter, the PROW administrator shall issue a license. The PROW administrator may impose reasonable conditions upon the issuance of the license and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the PROW and its current use.

155.13 LICENSE FEES.

1. Excavation License Fee. The excavation license fee shall be established by Council resolution in an amount sufficient to recover City PROW management costs as follows: administration cost, as defined above, associated with the intrusion, as per a set fee. The Administration fee shall be assessed for all permits issued pursuant to this chapter.

2. Tree Well License Fee. The license fee shall be established by Council resolution.

3. Payment of License Fees. No licenses shall be issued without payment of license fees. The City may allow applicant to pay such fees within thirty (30) days of billing.

4. Nonrefundable. License fees that were paid for a license that the PROW administrator has revoked for a breach pursuant to the provisions of this chapter are not refundable.

155.14 ADMINISTRATIVE PENALTIES FOR SCHEDULED VIOLATIONS.

1. The following schedule of administrative penalties for violations of this chapter shall be charged on a per-day basis:

VIOLATION	PENALTY (Per-Day)
Failure to obtain any license	$100.00
Failure to provide required notification of emergency trenching or excavations	$ 50.00
Failure to provide required traffic control devices	$100.00
Failure to restore PROW as required	$ 50.00
Failure to properly secure steel plates	$ 75.00
Failure to provide required notification for inspection	$ 75.00
Failure of restoration within the maintenance period	$100.00
Failure to restore street cuts within the period provided in the license	$100.00

2. Notice of violation with the applicable penalty for such violation noted thereon shall be issued by the PROW administrator to the violator. The violator may request in writing a hearing before the Council within ten (10) days of receiving the notice of violation. If no request of hearing is made, it shall be presumed that the violator is guilty and the penalties shall be paid within thirty (30) days of the issuance of the notice at the PROW administrator's office. If a hearing is held and the Council finds that the penalties should remain in place, the penalties shall be paid within twenty(20) days of the Council's decision unless appealed to the Iowa District Court within ten (10) days of the Council's final decision. The violator shall pay only when the final decision is made by a court of law that the penalties are warranted, if appealed to the district court.

3. The administrative penalties set out above shall be charged in lieu of fines for municipal infractions or misdemeanors, unless the PROW administrator determines that immediate enforcement action by municipal infraction or misdemeanor prosecution is necessary to achieve compliance.

4. The PROW administrator shall maintain a record of all violations, administrative penalties charged, or other enforcement action taken and shall use such records when refusal to issue a permit pursuant to this chapter is being contemplated.

The applicant shall be liable for any and all costs incurred by City because of such violations.

155.15 PROW PATCHING AND RESTORATION.

1. Timing. The work to be done under the excavation license, and the patching and restoration of the PROW as required herein, must be completed within the dates specified in the license, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the licensee or when work was prohibited as unseasonal or unreasonable under Section 155.17(2), as determined by the PROW administrator; delays caused by OSHA shall not be deemed to be beyond the control of the licensee.

2. Patch and Restoration. Licensee shall patch its own work involving all road surfaces including but not limited to gravel, rock, asphalt, and lanning cement, including any road surfaces in alleys. The licensee shall also restore all other areas of the PROW pursuant to specifications adopted by the City for such purposes. However, in certain instances at the discretion of the PROW administrator, the City may choose to restore the PROW itself, and such election shall be absolutely binding on the licensee.

A. City Restoration. If the City restores the PROW, licensee shall be relieved from future responsibility associated with defective work by the City. The licensee, however, shall pay the costs thereof within thirty (30) days of billing.

B. Licensee Restoration. If the licensee restores the PROW itself, it shall agree in writing to be responsible for any failure of the work for thirty-six (36) months after completion of the restoration of the PROW. If within the thirty-six months after completion of the restoration of the PROW a failure occurs or the administrator determines the PROW was improperly restored, the licensee shall be notified in writing of such failure or improper restoration and be given ten (10) days to remedy the situation. If the licensee fails to repair the failure or improper restoration, the City may do it on their own and collect the necessary costs, including any attorney fees and court costs from the licensee by any legal means.

3. Standards. The licensee shall perform patching and restoration according to the standards and with the materials specified by the PROW administrator. The PROW administrator shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

The PROW administrator in exercising this authority shall comply with standards of the industry for PROW restoration and shall further be guided by the following considerations:

A. The number, size, depth and duration of the excavations, disruptions or damage to the PROW;

B. The traffic volume carried by the PROW; the character of the neighborhood surrounding the PROW;

C. The pre-excavation condition of the PROW; the remaining life expectancy of the PROW affected by the excavation;

D. Whether the relative cost of the method of restoration to the licensee is in reasonable balance with the prevention of an accelerated depreciation of the PROW that would otherwise result from the excavation, disturbance or damage to the PROW; and

E. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the PROW that would otherwise take place.

4. Guarantees. If the City elects to require licensee to restore the PROW itself, the licensee shall remain exclusively responsible and liable for the sufficiency of the restoration for thirty-six (36) months following its completion. During this 36-month period it shall, upon notification from the PROW administrator, correct all restoration work to the extent necessary, using the method required by the PROW administrator. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the PROW administrator, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under Section 155.17(2).

5. Failure to Restore. If the licensee fails to restore the PROW in the manner and to the condition required by the PROW administrator, or fails to satisfactorily and timely complete all restoration required by the PROW administrator, the PROW administrator at its option may do such work. In that event the licensee shall pay to the City, within thirty (30) days of billing, the cost of restoring the PROW. If licensee fails to pay as required, the City may exercise its rights under the construction performance bond.

155.16 SUPPLEMENTAL APPLICATIONS.

1. Limitation on Area. A PROW license is valid only for the area of the PROW specified in the license. No licensee may do any work outside the area specified in the license, except as provided herein. Any

licensee which determines that an area greater than that specified in the license must be obstructed or excavated must before working in that greater area (i) make application for a license extension and pay any additional fees required thereby, and (ii) be granted a new license or license extension.

2. Limitation on Dates. A PROW license is valid only for the dates specified in the license. No licensee may begin its work before the license start date or, except as provided herein, continue working after the end date. If a licensee does not finish the work by the license end date, it must apply for a new license for the additional time it needs, and receive the new license or an extension of the old license before working after the end date of the previous license. This supplementary application must be done before the license end date.

155.17 OTHER OBLIGATIONS.

1. Compliance With Other Laws. Obtaining a PROW license does not relieve licensee of its duty to obtain all other necessary licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A licensee shall comply with all requirements of local, State and Federal laws, including Iowa's "One Call" law, Chapter 480, Code of Iowa, *Underground Facilities Information*. A licensee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the PROW pursuant to its license, regardless of who does the work.

2. Prohibited Work. Except in an emergency, and with the approval of the PROW administrator, no PROW obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

3. Interference with PROW. A licensee shall not so obstruct a PROW that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the PROW may not be parked within or next to a license area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined license area unless specifically authorized by the license.

155.18 DENIAL OF LICENSE. The PROW administrator may deny a license for failure to meet the requirements and conditions of this chapter or if the PROW administrator determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the PROW and its current use.

155.19 INSTALLATION REQUIREMENTS. The excavation, backfilling, patching and restoration, and all other work performed in the PROW shall be done in conformance with the *Urban Standard Specifications for Public Improvements* and *Urban Design Standards Manual*.

155.20 INSPECTION.

1. Notice of Completion. When the work under any license hereunder is completed, the licensee shall furnish a completion certificate satisfactory to the City.

2. Site Inspection. Licensee shall make the work site available to the PROW administrator and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

3. Authority of PROW Administrator. At the time of inspection the PROW administrator may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public. The PROW administrator may issue an order to the licensee for any work that does not conform to the terms of the license or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the license. Within ten (10) days after issuance of the order, the licensee shall present proof to the PROW administrator that the violation has been corrected. If such proof has not been presented within the required time, the PROW administrator may revoke the license pursuant to Section 155.23 of this chapter.

155.21 WORK DONE WITHOUT A LICENSE.

1. Emergency Situations. Each registrant shall immediately notify the PROW administrator of any event regarding its facilities that it considers to be an emergency. After hours, the registrant shall notify the City Emergency phone number. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the registrant shall apply for the necessary licenses, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If a storm, flood, or other City-wide emergency event causes system-wide damages to the equipment of a utility service company, requiring emergency repairs without obtaining the necessary PROW licenses, the Council may, upon request by the company sustaining such damage, waive or modify the requirement that licenses be obtained after the making of emergency repairs in response to such

event. If the PROW administrator becomes aware of an emergency regarding a registrant's facilities, the PROW administrator will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the PROW administrator may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary license, obstructs or excavates a PROW must subsequently obtain a license, and shall also be subject to the penalties contained in Section 155.14.

155.22 SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the PROW begins later or ends sooner than the date given on the license, licensee shall notify the PROW administrator of the accurate information as soon as this information is known.

155.23 REVOCATION OF LICENSES.

1. Substantial Breach. The City reserves its right, as provided herein, to revoke any PROW license, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the license. A substantial breach by licensee shall include, but shall not be limited to, the following:

A. The violation of any material provision of the PROW license;

B. An evasion or attempt to evade any material provision of the PROW license, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

C. Any material misrepresentation of fact in the application for a PROW license;

D. The failure to complete the work in a timely manner; unless a license extension is obtained or unless the failure to complete work is due to reasons beyond the licensee's control; or

E. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Section 155.20.

2. Written Notice of Breach. If the PROW administrator determines that the licensee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of

the license the PROW administrator shall make a written demand upon the licensee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the license. A substantial breach, as stated above, will allow the PROW administrator, at his or her discretion, to place additional or revised conditions on the license to mitigate and remedy the breach.

3. Response to Notice of Breach. Within ten (10) business days of receiving notification of the breach, licensee shall either provide the PROW administrator with a request to invoke Section 155.37 of this chapter, or a plan acceptable to the PROW administrator as to a remedy of the breach. Licensee's failure to so contact the PROW administrator, or the licensee's failure to submit an acceptable plan, or licensee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the license. Further, licensee's failure to so contact the PROW administrator, or the licensee's failure to submit an acceptable plan, or licensee's failure to reasonably implement the approved plan, shall automatically place the licensee on probation for one (1) full year.

4. Cause for Probation. From time to time, the PROW administrator may establish a list of conditions of the license, which if breached will automatically place the licensee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on PROW grossly outside of the license authorization.

5. Revocation. If a licensee, while on probation, commits a breach as outlined above, the licensee will be notified within two (2) business days that the license will be revoked and licensee will not be allowed further licenses for one full year, except for emergency repairs.

6. Reimbursement of City Costs. If a license is revoked, the licensee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

155.24 CITY'S REMEDIES NOT EXCLUSIVE. The remedies provided in this chapter and other chapters of this Code of Ordinances are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity; the City is hereby authorized to seek legal and equitable relief for actual or threatened injury to PROW, including damages to PROW, whether or not caused by a violation of any of the provisions of this chapter or other provisions of this Code of Ordinances.

155.25 MAPPING DATA. Each registrant shall provide mapping information required by the PROW administrator. All installations shall be

constructed per mapping data supplied. At the request of any registrant, any information requested by the PROW administrator, which qualifies as a "trade secret" under Iowa law, shall be treated as trade secret information.

155.26 LOCATION OF FACILITIES OR EQUIPMENT.

1. Underground and Above Ground. All cables, wires, fibers, pipes and conduits in connection with any utility system may be placed either underground or on poles above ground, except for those instances in which undergrounding is required pursuant to City's subdivision or site plan requirements as expressed in this Code of Ordinances; no such poles shall be installed or erected, and no license or permit for same shall be issued, until the PROW administrator has approved the proposed location of such poles.

2. High Density Corridors. The PROW administrator shall assign specific corridors within the PROW, or any particular segment thereof as may be necessary, for each type of facilities or equipment that is or, pursuant to current technology, the PROW administrator expects will someday be located within the PROW; registrants shall, when installing or replacing equipment in the PROW, place and locate such equipment in the appropriate corridor, either as provided in the City's utility accommodation and street restoration specifications, or as ordered by the PROW administrator; all excavation, obstruction, or other licenses issued by the PROW administrator involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the PROW in a position at variance with the corridors established by the PROW administrator shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the PROW, unless this requirement is waived by the PROW administrator for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

3. Correction of Improper Installations. Any facilities or equipment found in a PROW that have not been registered, or which is found (i) in a location other than the location specified therefor in City's utility accommodation and street restoration specifications, or (ii) in a location other than the location specified therefor by the PROW administrator, or (iii) in a location other than the location shown on the maps filed in the office of the PROW administrator by the person owning or operating that equipment will be deemed improperly installed. After giving the registrant thirty (30) days to correct the condition, the City may exercise

any remedies or rights it has at law or in equity, including, but not limited to, restricting future installations or taking possession of the facilities and restoring the PROW to a useable condition.

4. Limitation of Space. To protect health, safety, and welfare or when necessary to protect the PROW and its current use, the PROW administrator shall have the power to prohibit or limit the placement of new or additional facilities within the PROW – if there is insufficient space to accommodate all the requests of registrants or persons to occupy the PROW. In making such decisions, the PROW administrator shall strive to the extent possible to accommodate all existing and potential licensees of the PROW, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the PROW, the time of year with respect to essential utilities, the protection of existing facilities in the PROW, and future City plans for public improvements and development projects which have been determined to be in the public interest.

155.27 RELOCATION OF FACILITIES. A registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the PROW whenever the PROW administrator determines public health, safety and welfare require it and shall restore the PROW to the same conditions it was in prior to said removal or relocation. In the event the PROW administrator determines that a registrant must permanently remove and relocate its facilities because (i) the PROW which the registrant or licensee is occupying will be required for expanded or new City purposes, or (ii) the location of the licensee's or registrant's equipment will interfere with a present or future City use of the PROW or an economic development project, the registrant shall be compensated for the relocation costs at a fair and reasonable cost. Notwithstanding the foregoing, a registrant or licensee shall not be required to move or relocate its facilities from any PROW which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the registrant or licensee.

155.28 LOCATION OF FACILITIES PRIOR TO EXCAVATION. In addition to complying with the requirements of Iowa's "One Call" system, before the start date of any PROW excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

155.29 DAMAGE TO OTHER FACILITIES. When the PROW administrator, any City department, or any municipal utility other than a municipal telephone utility, does work in the PROW and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the PROW administrator shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. In such event, the PROW administrator shall notify the affected registrant, inform the registrant of the action intended to be taken, and afford such registrant the opportunity to review and comment on the action before it is taken. Each registrant shall be responsible for the cost of restoring any facilities in the PROW damaged by the registrant or its facilities. Each registrant shall be responsible for the cost of restoring any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

155.30 PROW VACATION. If the City vacates a PROW which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant's or licensee's facilities, the City shall reserve, to and for itself and all registrants having facilities in the vacated PROW, the right to install, maintain and operate any facilities in the vacated PROW and to enter upon such PROW at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same. If the vacation requires the relocation of registrant's or licensee's facilities; and (i) if the vacation proceedings are initiated by the registrant or licensee, the registrant or licensee must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the City must pay the relocation costs; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or licensee, such other person or persons must pay the relocation costs.

155.31 TUNNELING. No person shall tunnel under the surface of any City PROW for the purpose of making any gas, sewer, water, steam heating pipe, underground electric, telecommunications, telephone, or cable television connection without special permission from the PROW administrator.

155.32 TRAFFIC CONTROL DEVICES, LIGHTING AND PLATING. The public shall be protected at all excavations or trenches or open vaults in the PROW by the placement of proper traffic control devices, lighting and plating as specified in the *Iowa Manual on Uniform Traffic Control Devices* and applicable provisions of City's utility accommodation and street restoration specifications. Every person making such an excavation or trench shall maintain any and all protection required immediately above until the trench or excavation has been refilled and the street, pavement, sidewalk or curb has been restored as required herein.

155.33 FAILURE TO SECURE, RENEW OR COMPLY. Any person who fails to secure a franchise, licensee or lease required under this chapter, or any franchisee, licensee, or lessee who fails to comply with the requirements of any respective franchise, license, or lease, or this chapter, or with any other applicable legal requirements shall, upon notification of such violation by the PROW administrator, immediately act either to abate the violation or to cease its occupancy of the PROW and remove its equipment or system from the PROW. The City reserves the right either to remove or to disconnect and render inoperative any equipment or system in the PROW under franchise, license or lease which is used or maintained contrary to the provisions of this chapter, provided, however, that City will give written notice of its intent to take such action, including the date upon which such action will be taken, to the affected franchisee, licensee or lessee not less than seven days prior to taking such action.

155.34 INDEMNIFICATION AND LIABILITY. By registering with the PROW administrator, or by accepting a license under this chapter, a registrant or licensee agrees as follows:

1. Limitation of Liability. By reason of the acceptance of a registration or the grant of a PROW license, the City does not assume any liability (i) for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of facilities by registrants or activities of registrants.

2. Indemnification. As a condition for the use of a license issued by the City authorizing a licensee to obstruct or excavate on or within a PROW for the installation, maintenance, or repair or licensee's facilities in a PROW, the licensee shall defend, indemnify, and hold harmless the City from all liability or claims of liability for bodily injury or death to persons or property damage in which the claims: (i) allege negligent or otherwise wrongful acts or omissions of the licensee or its employees, agents or independent contractors in installing, maintaining, or repairing the licensee's facilities; or (ii) are based on the City's negligence or otherwise wrongful act or omission in issuing such license or in failing to property or adequately inspect or enforce compliance with the terms, conditions, or purposes of the license or licenses granted to licensee. Registrant or licensee shall indemnify, keep, and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the issuance of licenses or by the construction, maintenance, repair, inspection, or operation of registrant's or licensee's facilities located in the PROW. Except to the extent

authorized above regarding the issuance of licenses or inspection or enforcement thereof, or unless otherwise provided in an applicable franchise agreement, the City shall not be indemnified for losses or claims occasioned by the negligent or otherwise wrongful act or omission by the City.

3. Defense. If a suit is brought against the City under circumstances where the registrant or licensee is required to indemnify, the registrant or licensee, at its sole cost and expense, shall defend the City in the suit if written notice of the suit is promptly given to the registrant or licensee within a period in which the registrant or licensee is not prejudiced by the lack or delay of notice.

4. If the registrant or licensee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or licensee may not settle the litigation without the consent of the City. Consent will not be unreasonably withheld.

5. This part is not, as to third parties, a waiver of any defense, immunity, or damage limitation otherwise available to the City.

6. In defending an action on behalf of the City, the registrant or licensee is entitled to assert in an action every defense, immunity, or damage limitation that the City could assert in its own behalf.

155.35 NO SPECIAL DUTY CREATED. In placing any equipment, or allowing equipment to be placed, in the PROW, the City is not liable for any damages caused thereby to any registrant's or licensee's equipment which is already in place, and no such person is entitled to rely on the provisions of this chapter for the protection of its equipment; the ordinance codified in this chapter is enacted to protect the general health, welfare, and safety of the public at large, and no special duty is created as to any registrant or licensee by the enactment of such ordinance, or by acceptance of registration, or by issuance of a license, or by grant of a franchise or lease.

155.36 ABANDONED AND UNUSABLE FACILITIES.

1. Discontinued Operations. A registrant who has determined to discontinue its operations in the City must either:

A. Provide information satisfactory to the PROW administrator that the registrant's obligations for its facilities in the PROW under this chapter have been lawfully assumed by another registrant; or

B. Submit to the PROW administrator a proposal and instruments for transferring ownership of its facilities to the City.

If a registrant proceeds under this clause, the City may, at its option: (i) purchase the facilities; or (ii) require the registrant, at its own expense, to remove it; or (iii) require the registrant to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

2. Abandoned Facilities. Facilities of a registrant who fails to comply with this section, and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (i) abating the nuisance (ii) taking possession of the facilities and restoring it to a useable condition, or (iii) requiring removal of the facilities by the registrant, or the registrant's successor in interest.

3. Removal. Any registrant who has unusable and abandoned equipment or facilities in any PROW shall remove it from that PROW during the next scheduled excavation, unless this requirement is waived by the PROW administrator.

155.37 APPEAL. A PROW licensee that: (i) has been denied registration; (ii) has been denied a license; (iii) has had license revoked; or (iv) believes that the fees imposed are invalid or excessive may have the denial, revocation, or fee imposition reviewed, upon written request, by the Council. The Council shall act no later than sixty (60) days after receiving a written request for relief. A decision by the Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision. Upon affirmation by the Council of the denial, revocation, or fee imposition, the PROW licensee shall have the right to have the matter resolved either by binding arbitration with the consent of the governing body or bring an action in the district court to review the decision of the governing body. Binding arbitration must be before an arbitrator agreed to by both the Council and PROW licensee. If the parties cannot agree on an arbitrator, the matter must be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the PROW licensee and one selected by the other two arbitrators. The costs and fees of single arbitrator shall be borne equally by the City and PROW licensee. In the event there is a third arbitrator, each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the expense of the third arbitrator and of the arbitration.

155.38 RESERVATION OF REGULATORY AND POLICE POWERS. A licensee's or registrant's rights are subject to the regulatory and police

powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

155.39 PROVISIONS OF EXISTING FRANCHISES PREVAIL. In the event that a conflict of language occurs between the provisions of this chapter and an existing franchise, or between the provisions of this chapter and an existing lease of vacated PROW, the conflict shall be resolved in favor of the franchise or lease until it expires.

CHAPTER 156

COMMUNICATIONS TOWER AND ANTENNA INSTALLATION CODE

156.01 Purpose and General Policy
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156.01 PURPOSE AND GENERAL POLICY. The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies. This chapter is to be interpreted in light of these findings for the benefit of the citizens of the City.

156.02 DEFINITIONS. As used in this chapter:

1. "Antenna" means a device, dish or array used to transmit or receive telecommunications signals.

2. "Communications tower" means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.

3. "Height" of a communications tower is the distance from the base of the tower to the top of the structure.

4. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

156.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all

telecommunications providers that request a location on City property for their communications towers and antennas.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.

2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.

4. Revenues from site leases of City-owned-and-controlled land and structures shall reflect fair compensation for use of City property and administration of this chapter.

156.04 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

156.05 FEE REQUIRED. No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

156.06 LIMIT ON TERM. No lease for the use of public property shall be granted for a term of more than 25 years.

156.07 PRIORITIES AND PLACEMENT REQUIREMENTS.

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:

A. All functions of the City.

B. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.

C. Other governmental agencies for uses which are not related to public safety.

D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.

2. Placement on City-Owned Property. The placement of communications antennas or towers on City-owned property must comply with the following requirements:

A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.

B. The antenna or tower will have no adverse impact on surrounding private property. Antennas or towers will be allowed in districts zoned as "M" or "C" if a unipole is utilized. No antenna or tower will be allowed closer than 500 feet to any residence. No antenna or tower will be allowed in a district zoned "R."

C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards.

D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.

E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

F. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.

G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antenna or tower.

H. The user must obtain all necessary land use approval.

I. The applicant will cooperate with the City's objective to promote collocations and thus limit the number of separate antenna sites requested.

3. Placement on Private Property. The placement of communications antennas or towers on private property must comply with the following requirements:

A. The antenna or tower will be allowed on private property in districts zoned "M" or "C" if a unipole structure is utilized. Other types of antennas and/or towers will be allowed in districts zoned "A" upon approval by the Council. No antennas or towers will be allowed in any district zoned "R".

B. The antenna or tower will have no adverse impact on surrounding private property.

C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to other property.

D. No antenna or tower will be located closer than 500 feet from any residence.

E. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.

F. The user must obtain all necessary land use approval.

G. All applicants will be required to utilize an existing antenna or tower before applying for a new location. The City requires collocation of antenna or existing towers unless an engineering study reflects that collocation is impossible due to interference or signals.

156.08 APPLICATION PROCESS.

1. Documents Accompanying Application. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the City Administrator a completed application accompanied by a fee of two hundred dollars ($200.00) and the following documents, if applicable:

A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.

B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.

C. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the City.

D. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the

tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision, standards.

E. Identification of the owners of all antennas and equipment to be located on the site.

F. Written authorization from the site owner for the application.

G. Evidence that a valid FCC license for the proposed activity has been issued.

H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.

I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.

J. Additional information, as required, to determine that all applicable zoning regulations are met.

K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to (i) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City, or (ii) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.

2. Additional Requirements. Applicant must also show evidence that all of the following conditions which are applicable are met:

A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.

D. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.

E. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant (i) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site, or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

I. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to $1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the City, in form approved by the City Attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower, except no antenna or tower shall be closer than 500 feet to any structure used as a residence. The following height conditions apply:

(1) Commercial ("C" District) – Free-standing (unipole) tower with height not exceeding 150 feet is a permitted conditional use; height exceeding 150 feet requires special exception.

(2) Industrial ("M" District) – Free-standing (unipole) tower with height not exceeding 200 feet is a permitted conditional use; height exceeding 200 feet requires special exception.

(3) Agricultural ("A" District) – Free-standing (unipole) or guyed tower with height not exceeding 300 feet is a permitted conditional use; height exceeding 300 feet requires special exception.

K. A tower must be a minimum distance equal to one and one-half the height of the tower from any structure, historic property, or architecturally significant property, and must be set back from all lot line distances equal to the district setback requirements or 125% of the tower height, whichever is greater. This does not apply to any structure used in conjunction with the tower operation. See also, restriction regarding distance from residences in Section 156.07.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within sixty (60) days after all application materials are received.

156.09 NOISE AND EMISSION STANDARDS. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

156.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The City's water towers represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, their protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met:

A. The applicant must have written approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.

B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.

C. The presence of the facility will not increase the water tower maintenance cost to the City.

D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower.

Fees assessed for placement of antennas on City water towers shall be negotiated and approved by the Council.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and approval of the Council.

A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.

B. Commercial recreational areas and major ball fields.

C. Park maintenance facilities.

Fees to be charged for the placement of antennas or towers in any City park shall be negotiated and approved by the Council.

156.11 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Official who shall have the right to request documentation and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

156.12 TERMINATION. The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.

2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.

3. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

156.13 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power

and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

156.14 NEW TECHNOLOGIES. Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

156.15 LIABILITY FOR DAMAGES. The applicant shall assume liability for any and all damages, claims, or suits that occur or may occur from the erection, location, or use of said antenna and/or tower, whether on City-owned property or private property, and shall hold the City harmless and indemnify the City for any damages incurred or judgments rendered as a result of the erection, operation, or location of said antenna and/or tower on City-owned property.

156.16 PROTOCOL FOR COMPLAINTS. Any complaints arising from the erection, location, or operation of an antenna and/or tower shall be first addressed to the company owning or leasing the antenna and/or tower. If the complaint is not adequately addressed, the complaint shall be addressed with the Council. If the complaint is still not adequately addressed, the complaint will be referred to the FCC (Federal Communications Commission) or the appropriate department thereof.

CHAPTER 157

BUILDING CODE

157.01 Adopted
157.02 Amendments, Modifications, Additions and Deletions
157.03 Building Permit Fees
157.04 Foundation Subsoil Drainage
157.05 Records Open to Public Inspection
157.06 Violation

157.01 ADOPTED. For the purposes of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures; providing for the issuance of permits and collection of fees therefore; declaring and establishing fire districts; providing penalties for the violation thereof and repealing all ordinances, codes and parts of ordinances and codes in conflict therewith, the *International Building Code (IBC), Chapters 1-35 and Appendices I & J, 2012* Edition and the *International Residential Code (IRC), Chapters 1-10, 23, Section P2904 and appendices F, G, H & J, 2012 Edition*, including appendices thereto, is adopted in full as the Building Code for the City, except for the portions that are deleted, modified or amended by this chapter.

157.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *International Building Code, International Residential Code and International Energy Conservation Code* are made:

1. Permits and Inspections. Chapter 1 (one) of the *International Building Code and International Residential Code* is amended by the following:

A. Referenced Codes, 101.4 (IBC) and 101.4 (IRC). Amend 101.4.1 (IRC) from the "ICC Electrical Code" to the "National Electrical Code, 2011 Edition". Amend 101.4.3 (IBC) and 101.4.4 (IRC) from the "International Plumbing Code" to the "Uniform Plumbing Code, 2009 Edition".

B. Deleting from Section 105.2 (IBC) and R105.2 (IRC). Building numbers 2 (IBC), 6 (IBC) and 10 (IRC). Electrical, Gas, and Mechanical, (IBC) & (IRC).

C. Section 105.4 (IBC) and R105.4 (IRC) is amended by deleting the last paragraph of that section and enacting the following in its place:

The Building Official may deny an application for a building permit if the applicant has a history of building structures that do not meet the Building Code requirements, requiring numerous changes, has shown that he or she does not possess the necessary skills to build the type of structure being proposed in a workmanlike manner for the industry or has a history of requiring above average inspections to make sure that the Building Code is complied with.

D. Deleting Section 105.5 (IBC) and R105.5 (IRC) and substituting in lieu thereof the following:

105.5 (IBC) and R105.5 (IRC) Expiration. Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 60 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 30 days. However, in no case shall a permit be issued for a period longer than one year, unless the applicant applies for a permit to last longer based on the size of the project and difficulty of work. In the case of a special permit, the Building Official shall designate the permit as such and set the expiration date which shall not exceed three years.

In the event a permit expires or becomes null and void, a new permit shall first be obtained before work is recommenced. The fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded 180 days.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.

E. Section 107 (IBC) and R106 (IRC), subsection 107.3 (IBC) and R106.3 (IRC) is amended by adding.

> When submittal documents are required by Section 107.1 (IBC) and R106.1 (IRC), a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 25% of the building permit fee. The plan review fees specified in this section are separate fees from the permit fees specified in Section 157.03 of the Boone Municipal Code, and are in addition to the permit fees.

2. Add to Section 1608 (IBC) and Figure R301.2(5) (IRC) the following:

> Roofs of buildings used for human Occupancy shall be designed to sustain a minimum snow load of 25 pounds per square foot.

3. Site Address. Address numbers. Buildings shall have approved address numbers (approved by the Building Official), building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of ½ inch (12.7 mm). Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.

4. Sections R613.2 (IRC) is amended in the second to last sentence of paragraph one, changed from 24 inches, to 18 inches.

5. Section 903.2.8 (IBC) is amended by deleting the requirement for sprinkler installation for R-3 Residential occupancies.

6. Section 903.2.11.1.3 (IBC) is amended by the deleting the requirement for sprinkler installation in basements 3000 square feet or less, in R-3 Residential occupancies.

7. Basement Excavation. No basement excavation shall begin on any property until after the sanitary sewer has been installed from the City main to the inside of the building line.

8. Footings. Section 1809.5, Exception 2 (IBC) and R403.1.4.1 Exception 1 (IRC) is amended by adding the following:

> Group M buildings not over seven hundred - twenty (720) square feet in area may be constructed on a concrete slab at least four inches (4") thick, reinforced by 6 x 6 x 10 x 10 wire.

9. Foundations for Stud-Bearing Walls; Minimum Requirements. Figures in the column headed "Depth Below Undisturbed Ground Surface" in Section 1809.5 (IBC) are deleted and the following substituted in lieu thereof:

> All foundations or footings shall extend a minimum of forty-two (42) inches below the natural surface of the ground or finish grade.

10. Residential structures may have steel roofing classified as "stone coated." and Baked Enamel Standing seam steel roofing. All steel roofing material exposed to the weather shall be corrosion resistant. In addition, all steel roofing shall meet the specifications and standards set forth in Section 1507.4 (IBC) and R905.10 (IRC) of the *International Building Code and International Residential Code.*

157.03 BUILDING PERMIT FEES. For a permit to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, the fee shall be at the rate set by Council resolution.

157.04 FOUNDATION SUBSOIL DRAINAGE.

1. Every building hereafter erected with a basement as defined in Section 202 (IBC) and R202 (IRC) of the *International Building Code and International Residential Code* shall have a subsoil drainage system placed under the basement floor, with plans as approved by the Building Official, or surrounding the outer walls of the building with the tile invert set a minimum of eight (8) inches below the elevation of the basement floor. Such subsoil drainage system shall discharge the water therefrom into a receptacle located inside the foundation wall. Such receptacle shall terminate at least eighteen (18) inches below the tile invert of the drainage system and shall be at least sixteen (16) inches in diameter. Such receptacle shall extend upward to the surface of the floor.

2. Materials for the drainage system shall be made of open jointed, horizontally split, or perforated clay tile, or perforated bituminized fiber pipe, asbestos pipe, or perforated rigid, formadrain, or corrugated plastic pipe, not less than four (4) inches in diameter. The receptacle or sump shall be made of concrete pipe or a material approved by the Building Official and a pump of suitable capacity shall be provided.

3. Construction of Drainage System. Subsoil drainage tile shall be installed on stable soil with coarse gravel backfill, size one-half (½) inch to two and one-half (2½) inches over the tile, or other material approved by the Building Official. The joints of open tile shall be covered with an

asphalt-saturated felt paper. Gravel backfill shall be placed over and around the tile and extend to not less than one foot above the tile.

4. Discharge of Subsoil Water. The subsoil water collected by the subsoil drainage system shall be lifted by the use of a sump pump and shall be discharged outside the foundation wall. The discharge of the subsoil water may be into a natural waterway, a storm sewer or a sump drain tile. A connection will be required where a storm sewer or sump drain tile is available within 25 feet of the property line and no street cutting is required. The discharge pipe shall be of one and one-half (1½) inch rigid pipe and, if connected to a storm sewer or sump drain tile, shall contain a check valve or a positive check so as to prevent any storm waters from backing into the sump. Seasonal diversion of sump pump discharge to irrigation or other use is permitted. When the subsoil drainage system is so installed as to provide natural discharge by gravity, the sump pump will not be required.

A. Required Inspections. The Building Official, upon notification from the permit holder or agent, shall make the following inspections and shall either approve the subsoil drainage system or shall notify the permit holder or agent wherein the same fails to comply with this Code.

B. Subsoil drainage inspections shall be made before the excavated areas are covered. If the subsoil system is to be drained by natural gravity, the Building Official may require water to flow through the system as proof that the system is working properly.

C. The combining of subsoil or footing drain lines with any other storm drainage lines, except as herein provided, such as lines from roof drains or parking lot drains, is prohibited.

D. All connections of sump drain tile with storm sewer or discharge pipes with storm sewers must be made by the use of a tapping saddle approved by the Building Official.

E. Subsoil water shall not drain into the sanitary sewer system.

If subsoil water is present in existing buildings, draining into the sanitary sewer, the City Engineer or Building Official shall require such drainage system as may be deemed adequate to eliminate water from draining into the sanitary sewer.

157.05 RECORDS OPEN TO PUBLIC INSPECTION. All records shall be open to public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the Building Official without written consent.

157.06 VIOLATION. Any person violating any provision of the Building Code shall be in violation of this Code of Ordinances. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorized is lawful.

(Ch. 157 - Ord. 2196 – Dec. 14 Supp.)

[The next page is 1075]

CHAPTER 158

ELECTRICAL CODE

158.01 Purpose and Scope
158.02 Adoption of Electrical Code
158.03 Permit For Electrical Work
158.04 Issuance Of Permit
158.05 Application For Permit
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158.07 Annual Permits
158.08 Emergency Work
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158.10 Inspections
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158.12 Right of Entry
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158.14 Approval of Materials
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158.16 Electrical Power Supply
158.17 City Not Liable
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158.01 PURPOSE AND SCOPE. The purpose of this chapter is to adopt a complete Electrical Code, including provisions for the inspection and regulation of electrical installations, issuance of permits, collection of fees; and to provide penalties for violations of this chapter. The provisions of this chapter do not apply to any of the following: regular employees of a public utility who do electrical work for such public utility only; the electrical work of a telephone or telegraph company, or the persons performing electrical work for such a company, where such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; and regular employees of any railroad who do electrical work only as a part of that employment. The provisions of this chapter apply to and govern the supply of electricity and all sales, rentals, leases, uses, installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnection and maintenance of all electrical equipment.

158.02 ADOPTION OF ELECTRICAL CODE. The *National Electrical Code*, 2011 Edition, published by the National Fire Protection Association, is adopted in full, except for the following amendments, modifications and additions:

1. All commercial buildings, hotels, motels, churches, nursing homes and their auxiliary buildings, industrial plants, bulk storage plants, all buildings frequented by the public, all multi-family buildings more than two stories in height and such other buildings and similar buildings where, in the judgment of the Building Official, such use may be unduly hazardous to life and property, the wiring method used shall be any current code approved raceway. Metal-clad cable may be used for fish work for extension to existing conduit systems, the connection of lighting fixtures and equipment to conduit systems.

2. Ground-Fault Circuit-Interrupter. Add the following exceptions to Section 210.8(A)(5), of the 2011 *National Electrical Code*.

A. Exception No. 2 to 210.8(A)(5): Receptacles that are not readily accessible.

B. Exception No. 3 to 210.8(A)(5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with Section 400.7(A)(6), (A)(7), or (A)(8) of the 2011 *National Electrical Code*.

C. Receptacles installed under the exceptions of 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

158.03 PERMIT FOR ELECTRICAL WORK. No electrical work shall be done unless a permit authorizing the work has been issued by the Electrical Inspector. A permit shall be issued if the electrical work, as proposed in the application for a permit, meets all the requirements of this chapter. If plans and specifications are requested by the Electrical Inspector, they must meet the requirements of this chapter.

158.04 ISSUANCE OF PERMIT. Permits shall be issued only to electrical contractors licensed by the State of Iowa. Any permit required by this chapter may be issued to the owner of a single-family dwelling (or mobile home) used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, provided that the dwelling will be occupied by the owner, that the owner appears before the Electrical Inspector and shows himself or herself competent to do the specific work for which said owner desires a permit, and that the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work. Any restricted electrician doing service, repair, control work and making connections from power panel to the type of appliances or equipment which said electrician or his or her employer sells or services shall procure from the Electrical Inspector a permit. The restricted permit shall only entitle the permittee to connect to the power panel the type of appliances or equipment which said electrician or employer sells or services.

158.05 APPLICATION FOR PERMIT. Applications for permits shall be made to the Electrical Inspector on forms provided prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant and a general description of the materials to be used, and shall specify the particular part or parts of the work that must be

inspected as required by this chapter. The application shall be accompanied by fees in accordance with the schedule of fees as adopted by resolution of the Council. Permits shall be valid for 365 days from date of issue.

158.06 PLANS AND SPECIFICATIONS. Plans and specifications showing the proposed work in the necessary detail shall be submitted if requested by the Electrical Inspector. If a permit is denied, the applicant may submit revised plans and specifications without payment of any additional fee. If, in the course of work, it is found necessary to make any change from the plans and specifications on which a permit was issued, amended plans and specifications shall be submitted. Fees in the amount of half the fees originally required shall be paid. A supplementary permit, subject to the same conditions applicable to the original permit, shall be issued to cover the change.

158.07 ANNUAL PERMITS. In lieu of individual permits, an annual permit shall be issued after application to any person regularly employing one or more licensed maintenance electricians, for the repair and maintenance of electrical equipment in or on buildings or premises owned or occupied by the applicant for the permit. An application for an annual permit shall be in writing and shall contain a description of the premises on which the work is to be done. The permit holder shall keep a record of all electrical repairs and maintenance work done under the permit. This record shall be accessible to the Electrical Inspector at all reasonable times. All work done under such permits shall be maintained in conformance with the provisions of this chapter. The Electrical Inspector shall have the right to inspect the premises of the permit holder at any reasonable time. A permit fee of one-hundred dollars ($100.00) for work covered by the annual permit shall be paid not later than January 10 of that calendar year.

158.08 EMERGENCY WORK. In emergency situations, work can be initiated and completed by licensed electricians without first obtaining a permit. However, a permit must be obtained within a reasonable time after the passage of the critical period. With this one exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the Electrical Inspector for full compliance.

158.09 FEES FOR INSPECTIONS. Fees for all inspections will be as set by resolution of the Council. For specifics, contact the City Building Official's office.

158.10 INSPECTIONS.

1. Upon the completion of electrical work that has been done under a permit other than an annual permit, the person doing the work shall

notify the Electrical Inspector. The Electrical Inspector shall inspect the work within twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, after receipt of notice, or as soon thereafter as practicable.

2. If the Electrical inspector finds the work to be in conformity with the provisions of this chapter, the inspector shall issue to the person that has done the work a certificate of approval. This certificate shall authorize the use of the work and its connection to the supply of electricity.

3. A certificate of approval may be issued authorizing the connection and use of a temporary installation. Such certificate shall be issued to expire at a stated time and may be revoked by the Electrical Inspector for any violation of this chapter.

4. No person having charge of the construction, alteration or repair of any building, or any other person, shall cover or conceal or cause to be covered or concealed any wire or electrical apparatus for which a permit has been issued or for which a permit is required before said wiring or apparatus has been inspected and approved by the Electrical Inspector.

5. The Electrical Inspector shall have authority to remove or cause the removal of lath, plaster, boarding or other covering which may prevent the proper inspection of any electrical apparatus or wiring. The City assumes no responsibility to replace the same.

6. If any electrical equipment is to be hidden from view by the permanent placement of parts of a building, structure or grounds, the person installing the equipment shall notify the Electrical Inspector. Such equipment shall not be concealed until it has been inspected and approved by the Electrical Inspector or until twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, have elapsed after the receipt of such notification by the Electrical Inspector. On installations where the concealment of equipment proceeds continuously, the person installing the equipment shall give the Electrical Inspector due notice and inspections shall be made periodically during the progress of the work.

7. At regular intervals the Electrical Inspector shall visit all premises where work may be done under annual permits. The Electrical Inspector shall inspect all electrical work since the date of the last inspection, and shall issue a certificate of approval for work found to be in conformity with the provisions of this chapter after the licensee has paid the fees as set by resolution of the Council for each individual project performed under the subsections of that section.

158.11 FURNISHING ELECTRICITY TO UNAPPROVED PREMISES. It is unlawful for any person distributing electric current for light, heat or power within the City to connect its system and furnish current for electrical purposes to any building or premises the wiring of which has not been inspected and approved by the City Electrical Inspector and a certificate of approval issued therefor.

158.12 RIGHT OF ENTRY. The Electrical Inspector shall have the right, during reasonable hours and upon consent of the occupant, to enter any building or premises in the discharge of official duties to make any inspection, re-inspection or test of electrical equipment that is reasonably necessary to protect the public health, safety and welfare. Where the building or premises is unoccupied, the consent of the owner shall be obtained. If the Electrical Inspector has reasonable cause to believe that electrical installations or equipment within the building or premises constitute an extreme hazard to persons or property, the Electrical Inspector shall have the right to immediately enter and inspect such installations or equipment, and may use any reasonable means required to effect such entry and make such inspection, whether such property is occupied or unoccupied and whether or not permission to inspect has been obtained.

158.13 SHUTTING OFF SUPPLY. If the Electrical Inspector finds that any electrical equipment or installation is defective or that it has been installed in conflict with the provisions of this chapter, said inspector shall notify the person responsible for the electrical equipment or installation by certified mail of such findings and orders. If the necessary changes or repairs are not completed within fifteen (15) days (or longer period as specified in the notice), the Electrical Inspector shall have the authority to disconnect or order the discontinuance of electrical service to the equipment or installation in question. No disconnection shall be made during the pendency of an appeal to the Electrical Appeal Board. In cases where maintenance of electrical service to electrical equipment or installations constitutes an extreme hazard to persons or property, the Electrical Inspector shall have authority to cause immediate discontinuance of such service. If fires have damaged the wiring of any building or structure, reconnection to electrical supply shall not be made until authorized in writing by the Electrical Inspector.

158.14 APPROVAL OF MATERIALS. The Electrical Inspector may approve in advance electrical materials inspected and approved by the Underwriters' Laboratories, Inc. and other materials of equal or higher quality. The Electrical Inspector shall keep on file a list of such approved materials. This list shall be accessible for public reference during regular office hours.

158.15 APPEAL. Any person dissatisfied with the action of the inspector upon any matter covered by this chapter may have such action reviewed by the Council upon filing with the Council a written appeal stating the ruling or order appealed from.

158.16 ELECTRICAL POWER SUPPLY. Except where work is done under an annual permit, it is unlawful for any person to make connection from a supply of electricity or to supply electricity to any electrical equipment for the installation of which a permit is required unless such connection has been authorized by the Electrical Inspector. It is unlawful to make connections to equipment that has been disconnected or ordered to be disconnected by the Electrical Inspector.

158.17 CITY NOT LIABLE. The inspection of electric wires, apparatus, fixtures, poles, conduits, etc., or the granting of certificates by the City Electrical Inspector shall not make the City liable on account of, or the granting of such certificates, or lessen the liability of persons owning, operating or installing such wires, apparatus, fixtures, poles, conduits, etc., which would exist in the absence of such inspection and control or the issuance of such certificates under the provisions of this chapter.

158.18 VIOLATION. Any person violating any provision of the Electrical Code shall be in violation of this Code of Ordinances. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorized is lawful.

(Ch. 158 – Ord. 2183 – Apr. 13 Supp.)

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CHAPTER 159

PLUMBING CODE

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159.08 Turning on Water – Restrictions
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159.15 Automatic Sprinklers
159.16 Illegal Hookups
159.17 Service Pipe Materials and Structure Specifications
159.18 Supervision and Completion of Water Connections – Revocation of Permits

159.01 PURPOSE AND SCOPE. The purpose of this chapter is to adopt a complete Plumbing Code, including provisions for the inspection and regulation of plumbing installations, issuance of permits, collection of fees, and to provide penalties for violations in order to protect the public safety, health and welfare.

159.02 ADOPTION OF PLUMBING CODE. The *Uniform Plumbing Code*, 2009 Edition, including the appendices thereto, and *Installation Standards*, as published by the International Association of Plumbing and Mechanical Officials, is adopted in full, except for the following amendments, modifications, additions and deletions:

1. Violations and Penalties. Delete the first paragraph of Title 102.3 of the "Administration" section and substitute in lieu thereof the following:

> Any person, firm or corporation violating any provision of this Code shall be in violation of the Boone Code of Ordinances. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorized is lawful.

2. Schedule of Fees. Delete the "Schedule of Fees" from Title 103.4 of the "Administration" section and substitute in lieu thereof:

> The fees as set by resolution of the City Council. For a complete list of fees, contact the Building Official's office.

3. Minimum Number of Fixtures. Delete Section 412 and Table 4-1 of the *Uniform Plumbing Code* and adopt Section 403 of the *International Plumbing Code*, 2009 Edition.

> A. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table IPC

403.1. Types of occupancies not shown in Table IPC 403.1 shall be considered individually by the code official. The number of occupants shall be determined by the International Building Code. Occupancy classification shall be determined in accordance with the International Building Code.

4. Vent Pipes. Delete Section 905.4 and substitute in lieu thereof the following: "All vent pipes shall extend above the roof, or shall be reconnected with a soil or waste vent of proper size. All vents through a roof shall be a minimum of three inches."

5. Trap Arms. Table 10-1 of Section 1002.4 is amended to read as follows:

Horizontal Distance of Trap Arms
(Except for Water Closets)

Trap Arm	Distance of Trap from Vent
1¼"	5 feet
1½"	6 feet
2"	8 feet
3"	12 feet
4" and larger	12 feet

6. Sewer Available. In section 713.4, the words "two hundred (200)" are deleted and the words "two hundred fifty (250) substituted in lieu thereof."

7. Appliance Connectors. Where a gas-connected appliance, such as a water heater, is replaced with a new one, all piping which is not of approved type shall be replaced with approved type piping per Section 1209.5 of the *Uniform Plumbing Code.*

8. Water Heater Temperature and Pressure Relief Valves. Add to Section 608.3 the following: "Each such combination temperature and pressure relief valve shall be provided with a drain pipe extended downward to within six inches of the floor."

159.03 PERMIT FOR PLUMBING WORK. No plumbing work shall be done unless a permit authorizing the work has been issued by the Plumbing Inspector. A permit shall be issued if the plumbing work, as proposed in the application for a permit, meets all the requirements of this chapter. Plans and specifications may be required with the application for a permit. The Plumbing Inspector may require plans and specifications to be prepared and designed by an engineer or architect licensed by the State of Iowa to practice as such for all commercial, industrial, public or semi-public buildings.

Permits will not be required for the replacement of broken fixtures, provided such fixtures conform to the regulations contained in this chapter, nor for the replacing of tanks or faucets or the repair of water tanks.

Information as may be obtained from the records, maps, employees, etc., of the City water department or the building official's office relative to the location of water mains and service pipes, will be furnished to licensed plumbers and interested parties. However, the water department or building official or his designee does not guarantee the accuracy of the same.

159.04 ISSUANCE OF PERMITS. Permits shall be issued only to plumbing contractors licensed by the State of Iowa. Any permit required by this chapter may be issued to the owner of a single-family dwelling (or mobile home) used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, provided that: (i) the dwelling will be occupied by the owner, (ii) the owner appears before the Plumbing Inspector and shows himself or herself competent to do the specific work for which the permit is desired, and (iii) the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work. Any restricted plumber doing service, repair or installation of appliances or equipment which said plumber or his or her employer sells or services shall procure from the Plumbing Inspector a restricted permit and pay the fee for inspection set out in the permit fee schedule. The restricted permit shall only entitle the permittee to connect to the drainage or water piping the type of appliances or equipment which said plumber or employer sells or services.

159.05 APPLICATION FOR PERMIT. All records shall be open to the public. Applications for permits shall be made to the Plumbing Inspector on forms provided prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant, a general description of the materials to be used, and shall specify the particular part or parts of the work that must be inspected as required by this chapter. The application shall be accompanied by fees in accordance with the schedule of fees as established by resolution of the City Council. Permits shall be valid for 365 days from date of issue.

159.06 EMERGENCY WORK. In emergency situations, work can be initiated and completed by licensed plumbers without first obtaining a permit. However, a permit must be obtained within a reasonable time after the passage of the critical period. With this one exception, all emergency work must be

done in conformity with the provisions of this chapter and shall be inspected by the Plumbing Inspector for full compliance.

159.07 INSPECTIONS.

1. Upon the completion of plumbing work that has been done under a permit, the person doing the work shall notify the Plumbing Inspector. The Plumbing Inspector shall inspect the work within twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, after receipt of notice, or as soon thereafter as practicable.

2. If the Plumbing Inspector finds the work to be in conformity with the provisions of this chapter, the Plumbing Inspector shall issue to the person that has done the work a certificate of approval.

3. A certificate of approval may be issued authorizing the connection and use of a temporary installation. Such certificate shall be issued to expire at a stated time and may be revoked by the Plumbing Inspector for any violation of this chapter.

4. No person having charge of the construction, alteration or repair of any building, or any other person, shall cover or conceal or cause to be covered or concealed any plumbing for which a permit has been issued or for which a permit is required before the plumbing has been inspected and approved by the Plumbing Inspector.

5. The Plumbing Inspector shall have authority to remove or cause the removal of lath, plaster, boarding or other covering which may prevent the proper inspection of any plumbing. The City assumes no responsibility to replace same.

6. If any plumbing is to be hidden from view by the permanent placement of parts of a building, structure or grounds, the person installing the plumbing shall notify the Plumbing Inspector. Such plumbing shall not be concealed until it has been inspected and approved by the Plumbing Inspector or until twenty- four (24) hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed after the receipt of such notification by the Plumbing Inspector. On installations where the concealment of plumbing proceeds continuously, the person installing the equipment shall give the Plumbing Inspector due notice, and inspection shall be made periodically during the progress of the work.

159.08 TURNING ON WATER – RESTRICTIONS. Plumbers and others are prohibited from turning on water in any service pipe, except for test purposes, without the permission of the Building Official or Building Inspector. Any licensed plumber may admit water to service pipe or connections for the purpose of test, but upon completion of the test shall turn the water off at the

curb cock. New services, when completed by the plumber, shall in all cases be left turned off at the curb cock. Any plumber shutting off water from a private service, except for short periods of time, shall report the same to the Building Official or Building Inspector.

159.09 PROTECTION OF WATER SUPPLY SYSTEM. The Building Official shall make and enforce such regulations concerning the installation, repair or alteration of air conditioning systems, water treatment equipment and water-operated devices as such official believes are necessary to protect the water supply system of the City from anything which might endanger the public health, safety or welfare. These regulations are to implement the purposes of this chapter and must not be inconsistent with this chapter or with State laws or regulations.

159.10 STOP-AND-WASTE VALVES. There shall be a stop-and-waste valve attached to every water service at a point not more than two (2) feet from where the service enters the building and one attached on the house side of the water meter not more than two (2) feet from the water meter.

159.11 CURB COCK REQUIREMENTS. There shall be a curb cock in every service connection to the main lateral or extension service supply in streets located in the parking and in alleys located within one foot of the alley line. The curb cock to be used for services from three-fourths inch to two inches in size shall be the style known as "Inverted Key" Mueller or Glauber or equivalent, provided with "T" handle and of the weight approved by the building official.

159.12 WATER METERS. Water meters shall be installed not more than three (3) feet from the wall where the water service enters the building, except in cases where the service runs under the floor. Meters shall be installed in a horizontal position not less than two (2) feet above the floor, or more than five (5) feet above the floor, and shall be equipped with a remote reading head unless otherwise specified by the Director of Public Works.

159.13 LIABILITY FOR DAMAGES. None of the provisions of this chapter shall be construed to relieve or lessen the liability of any person owning, operating, controlling, installing or repairing any plumbing work or equipment where damages to any person or property are caused by any negligence or defects in the operation or installation or repair thereof. Neither the City nor any of its inspectors shall be held as assuming any such liability by reason of inspections authorized in this chapter or the licenses issued.

159.14 INSPECTION OF WORK. When a permit has been issued for plumbing work, the construction of such plumbing shall be subject to the

inspection of the Plumbing Inspector at all times, and the Building Official may revoke such permit at any time when the work is not being done in accordance with the ordinances of the City or the rules and regulations of the State Board of Health. It is unlawful for any person to proceed further with such work without the written consent of the Building Official. When the water service pipe has been completed from the water main to the stop and waste cock in the basement and before such work has been covered or in any way concealed from view or any fixture set, the work shall be inspected as follows:

1. It shall be the duty of the master plumber or his representative to notify the building official either by telephone or in writing not less than eight working hours between the hours of eight a.m. and four p.m. before the work is to be inspected or tested, giving the permit number, location of work and the time when such work will be ready for inspection.

2. It shall be the duty of the plumber to make sure that the work will stand the test prescribed before giving the above notification.

3. If, after inspection, the building official finds that the work will not stand the test, the plumber shall be required to re-notify as specified in subsection 1 of this section and pay a sum sufficient to cover all expenses for each such additional inspection.

4. If the building official or his authorized representative, after having been notified in writing, fails to appear within twenty-four hours, exclusive of weekends and holidays, after such notification, the inspection or test is deemed to have been made, and the plumber is required to file an affidavit with the building official stating that the work was installed in accordance with this chapter and the permit, that it was free from defects, that the required tests had been made, and that the system was found free from leaks.

5. If any water service pipe is tested and found to fail to hold a water or air pressure of one hundred fifty pounds to the square inch, such service pipe shall be condemned and taken out of service.

159.15 AUTOMATIC SPRINKLERS. Automatic sprinkler systems shall be subject to the regulations set forth in the *International Fire Code*, *International Building Code* and *International Residential Code*, 2009 Editions. All water used through any such system for fire suppression, shall be free of charge to the owner thereof.

159.16 ILLEGAL HOOKUPS. Any licensed plumber or any person holding himself or herself out as a licensed plumber, either journeyman, plumbing contractor, or restricted plumber, who installs any plumbing hookup or installation for water, sewer or sump drain lines in any manner in violation of

the adopted plumbing, sewer or sump drain regulations and codes is guilty of a municipal infraction. Any hookup or installation in violation of the established codes or regulations shall be corrected, at the installer's expense, within 24 hours of receiving written notice of said violation. Each day or portion thereof the violation exists shall constitute a separate offense. If the installer fails to correct the violation within 24 hours of receiving written notice, the Building Official may cause the violation to be corrected and the costs thereof shall be assessed against the installer, in addition to any fines assessed for the municipal infraction along with all associated costs of serving the notice of the violation, time involved with inspections and any permit fees. The Building Official may use any legal means to collect the assessed cost of the abatement.

159.17 SERVICE PIPE MATERIALS AND STRUCTURE SPECIFICATIONS.

1. Whenever a material or article is specified or described by using the name of a proprietary product or the name of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function and quality desired. Other manufacturers' products will be accepted, provided sufficient information is submitted to allow the Building Official to determine that the products proposed are equivalent to those named. Such items shall be submitted for review by the procedure adopted by the Building Official.

2. A corporation cock of either a Mueller or Glauber make or its equivalent shall be inserted in every tap made in the water main. The connection to the main shall be made by a regulation corporation cock one-eighth inch smaller than the service pipe therefrom and connected to copper services with a sweated or beaded joint. All joints in service pipes shall be tested and approved by the building official before being covered.

3. No meter manhole shall be constructed or used except by special permit of the City building official subject to the conditions and specifications established by the building official and the Uniform Plumbing Code. However, no meter manhole shall be permitted for property which abuts upon a street or alley having a water main therein; provided further, that all meter manholes now in use for property abutting upon a street or alley having service installed whenever the building official deems it expedient to so order. All meter manholes now or hereafter built shall at all times be subject to such alteration and repairs as the building official may prescribe. Any failure of the property owner to comply with this section and the lawful directions given hereunder shall give the City the right to carry out the provisions hereof

and charge the same to the property as a bill for water used. The City assumes no liability for any damages caused by the use of meter manholes, and every permit granted for meter manholes shall recite this section.

159.18 SUPERVISION AND COMPLETION OF WATER CONNECTIONS – REVOCATION OF PERMITS. When a permit has been issued for water connections, the accomplishment of such work shall be under the supervision of the building official or his authorized representative at all times and until its completion and acceptance. The building official may revoke said permit at any time when such work is not being done in accordance with this chapter or the approved plans or permit. If such permit is revoked, it will be unlawful for any person to proceed further with said work without written consent of the building official. When a plumbing permit has been issued, the work included therein shall be started within sixty days from the date of the permit and completed within one year after the beginning of the work, otherwise such permit is null and void and a new permit must be obtained.

(Ch. 159 – Ord. 2184 – Apr. 13 Supp.)

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CHAPTER 160

MECHANICAL CODE

160.01 Purpose and Scope
160.02 Adoption of Mechanical Code
160.03 Permit for Mechanical Work
160.04 Issuance of Permits
160.05 Application for Permit
160.06 Emergency Work
160.07 Inspections
160.08 Liability for Damages
160.09 Inspection of Work

160.01 PURPOSE AND SCOPE. The purpose of this chapter is to adopt a complete Mechanical Code, including provisions for the inspection and regulation of installation and maintenance of heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat-producing appliances; issuance of permits, collection of fees, and to provide penalties for violations of this chapter in order to protect the public safety, health and welfare.

160.02 ADOPTION OF MECHANICAL CODE. The *International Mechanical Code*, 2009 Edition, including appendix A thereto, as published by the International Code Council, is adopted in full, except for the following amendments, modifications, additions and deletions:

1. Violations and Penalties. Delete Section 108.0 and substitute in lieu thereof the following:

> Any person, firm or corporation violating any provision of the Mechanical Code shall be in violation of the Boone Code of Ordinances. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorized is lawful.

2. Permit Fees. Delete Section 106.5.2 and substitute in lieu thereof the following:

> Schedule of permit fees as set by resolution of the City Council. For a list of fees, contact the Building Official's office.

160.03 PERMIT FOR MECHANICAL WORK. No mechanical work shall be done unless a permit authorizing the work has been issued by the Mechanical Inspector. A permit shall be issued if the mechanical work, as proposed in the application for a permit, meets all the requirements of this chapter. Plans and specifications may be required with the application for a permit. The Mechanical Inspector may require plans and specifications to be

prepared and designed by an engineer or architect licensed by the State to practice as such for all commercial, industrial, public or semi-public buildings.

160.04 ISSUANCE OF PERMITS. Permits shall be issued only to mechanical contractors licensed by the State of Iowa. Any permit required by this chapter may be issued to the owner of a single-family dwelling (or mobile home) used exclusively for living purposes, to do any work regulated by this chapter in that dwelling, including the usual accessory buildings and quarters, provided that: (i) the dwelling will be occupied by the owner, (ii) the owner appears before the Mechanical Inspector and shows himself or herself competent to do the specific work for which the permit is desired, and (iii) the owner personally shall purchase all materials and perform all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this chapter and shall be inspected like other work.

160.05 APPLICATION FOR PERMIT. Applications for permits shall be made to the Mechanical Inspector on forms provided prior to beginning the particular work, except for emergency work. The application shall include the name and business address of the person that is to do the work, a description of the property where the work is to be done, the name of the owner of the property, the name of the occupant, a general description of the materials to be used, and shall specify the particular part or parts of the work that must be inspected as required by this chapter. The application shall be accompanied by fees in accordance with the schedule of fees as adopted by resolution of the City Council. Permits shall be valid for 365 days from date of issue.

160.06 EMERGENCY WORK. In emergency situations, work can be initiated and completed by licensed mechanical contractors without first obtaining a permit. However, a permit must be obtained within a reasonable time after the passage of the critical period. With this one exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the Mechanical Inspector for full compliance.

160.07 INSPECTIONS.

1. Upon the completion of mechanical work that has been done under a permit, the person doing the work shall notify the Mechanical Inspector. The Mechanical Inspector shall inspect the work within twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, after receipt of notice, or as soon thereafter as practicable.

2. If the Mechanical Inspector finds the work to be in conformity with the provisions of this chapter, the Mechanical Inspector shall issue to the person that has done the work a certificate of approval.

3. A certificate of approval may be issued authorizing the connection and use of a temporary installation. Such certificate shall be issued to expire at a stated time and may be revoked by the Mechanical Inspector for any violation of this chapter.

4. No person having charge of the construction, alteration or repair of any building, or any other person, shall cover or conceal or cause to be covered or concealed any mechanical work for which a permit has been issued or for which a permit is required before such work has been inspected and approved by the Mechanical Inspector.

5. The Mechanical Inspector shall have authority to remove or cause the removal of lath, plaster, boarding or other covering which may prevent the proper inspection of any mechanical work. The City assumes no responsibility to replace same.

6. If any mechanical work is to be hidden from view by the permanent placement of parts of a building, structure or grounds, the person installing the mechanical equipment shall notify the Mechanical Inspector. Such mechanical work shall not be concealed until it has been inspected and approved by the Mechanical Inspector or until twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed after the receipt of such notification by the Mechanical Inspector. On installations where the concealment of mechanical work proceeds continuously, the person installing the equipment shall give the Mechanical Inspector due notice, and inspections shall be made periodically during the progress of the work.

160.08 LIABILITY FOR DAMAGES. None of the provisions of this chapter shall be construed to relieve or lessen the liability of any person owning, operating, controlling, installing or repairing any mechanical work or equipment where damages to any person or property are caused by any negligence or defects in the operation or installation or repair thereof. Neither the City nor any of its inspectors shall be held as assuming any such liability by reason of inspections authorized in this chapter or the licenses issued.

160.09 INSPECTION OF WORK. When a permit has been issued for mechanical work, the installation of such mechanical work shall be subject to the inspection of the Mechanical Inspector at all times, and the Building Official may revoke such permit at any time when the work is not being done in accordance with the ordinances of the City or the rules and regulations of the State. It is unlawful for any person to proceed further with such work without the written consent of the Building Official.

(Ch. 160 – Ord. 2182 – Apr. 13 Supp.)

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CHAPTER 161

ABATEMENT OF DANGEROUS BUILDINGS CODE

161.01 Adoption of Dangerous Buildings Code **161.02 Amendments, Modifications, Additions and Deletions**

161.01 ADOPTION OF DANGEROUS BUILDINGS CODE. The *Uniform Code for Abatement of Dangerous Buildings*, 1997 Edition, as published by the International Conference of Building Officials, is hereby adopted in full except for such portion as may be hereinafter deleted, modified or amended.

161.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions are made to the *Uniform Code for Abatement of Dangerous Buildings*:

1. Section 801(2) (Costs) is hereby modified by deleting the words "work shall be paid from the repair and demolition fund, and."

2. Section 912 is hereby deleted in its entirety.

[The next page is 1135]

CHAPTER 162

LIFE SAFETY CODE

162.01 LIFE SAFETY CODE. The *Life Safety Code* and Annex A & B, 2000 Edition, as published by the National Fire Protection Association, are hereby adopted in full, subject to the following additions, modifications or deletions:

(NONE)

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CHAPTER 163

UNIFORM FIRE CODE

163.01 ADOPTION OF UNIFORM FIRE CODE. The *Uniform Fire Code*, 1997 Edition, and the *Uniform Fire Code Standards*, 1997 Edition, published by the International Fire Code Institute, are hereby adopted in full by reference except for the following amendments, modifications and additions:

1. The open burning provisions of the *Uniform Fire Code* are amended by adding the following time restrictions thereto:

> Periods of open burning are restricted to the periods of April 15 to May 15 and from October 1 to November 15 of each year. From April 15 to May 15, burning shall be done after eight o'clock (8:00) a.m. and must be fully extinguished by seven o'clock (7:00) p.m., and from October 1 to November 15, burning shall be done after eight o'clock (8:00) a.m. and be fully extinguished by five o'clock (5:00) p.m. Permissible times shall be prescribed for burn offs by the Fire Chief. The time periods provided herein may be changed or extended by resolution of the City Council.

(Ord. 2143 – Sep. 09 Supp.)

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CHAPTER 164

RESIDENTIAL AND COMMERCIAL CONDOMINIUM AND COOPERATIVE HOUSING CODE

164.01 Purpose
164.02 Restricted Liability
164.03 Interpretation
164.04 Applicability
164.05 Definitions
164.06 Creation of a Condominium or Horizontal Property Regime
164.07 Conversions – Strict Compliance
164.08 Conversion Physical Elements Report
164.09 Acceptance of Conversion Physical Elements Report
164.10 Hearing Concerning Conversions
164.11 Standards For Condominium Conversions
164.12 Notice of Intent to Convert
164.13 Tenant's Right To Purchase
164.14 Vacation of Units
164.15 Special Cases
164.16 Equal Opportunity
164.17 Access
164.18 Payment of Assessments
164.19 Administration
164.20 Criteria for Consideration for Conversions
164.21 Requirements for Approval of Conversions
164.22 Penalty; Other Remedies

164.01 PURPOSE. It is the purpose of this chapter to control and regulate the construction, renovation and conversion of new condominiums and existing structures and to require the owners, declarants, builders and their agents, to meet their responsibilities with regard to existing building, mechanical and electrical codes as well as existing State statutes relating to the *Horizontal Property Act*, *Multiple Housing Act*, and any other codes or acts pertaining to like matters. It is not the intent of this chapter to create any duty or liability by the City, its officers, agents, or employees, to premises occupants, owners, tenants or any other persons.

164.02 RESTRICTED LIABILITY. No person shall place reliance upon this chapter, or any inspections performed or certificates issued pursuant to this chapter, as indicating the safety or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant hereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not, in any way, constitute a warranty or guarantee of the safety or quality of the premises. No person shall assume that reports made by declarants, property owners or their agents and employees pursuant hereto have been verified by the City or that the City in any way warrants or guarantees the accuracy or truthfulness of any such reports.

164.03 INTERPRETATION. This chapter shall be liberally construed and applied to promote its purpose in harmony with applicable State law. The relation between the owners is of no concern to the City except where an ordinance requires the "owner" to do something. This chapter is designed to

make clear the obligations of the owner of each unit insofar as ordinance compliance is concerned.

164.04 APPLICABILITY. This chapter applies to all multiple-family dwellings located within the City which are to be developed as new or conversion condominiums or cooperatives pursuant to declarants under the *Iowa Housing Act* (Ch. 499A). Sections 164.01 through 164.05 and 164.12 through 164.15 shall apply to resale of any unit by an individual unit owner even if such unit was created prior to adoption of the ordinance codified in this chapter. Declarants under the *Iowa Horizontal Property Act* (Ch. 499B) or who issued a notice of intent or otherwise formally initiated to the condominium or cooperative ownership process prior to the passage of the ordinance codified in this chapter and who cannot reasonably comply with the notice provisions of Section 164.12 may apply to the Council for consideration of a hardship waiver of these provisions. This chapter shall not be construed to govern any agreements or contracts between the developer, builder, owner, declarant and their agents or the tenants or future unit owners except as already stated.

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

1. "Apartment" means one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories and notwithstanding whether the apartment is intended for use or used as a residence, office, for the operation of any industry or business or for any other use not prohibited by law.

2. "Condominium" means property which is subject to the *Iowa Horizontal Property Act* (Ch. 499B) or the *Iowa Multiple Housing Act* (Ch. 499A) and to this chapter, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. (Note: Reference to "condominium" also shall be deemed to include "cooperative.")

3. "Condominium conversion" means a condominium or cooperative containing units which were wholly or partially occupied before the recording of the declaration.

4. "Condominium instruments" means all or any documents, articles or cooperation and authorized amendments including but not limited to the declaration, bylaws, plats and condominium disclosure statements which are required to be filed pursuant to the provisions of this chapter and State statutes.

5. "Co-owner" means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.

6. "Council of co-owners or unit owners' association" means all of the co-owners or unit owners of the building. The business and affairs of the council or association may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members.

7. "Declarant" means any person who plans to execute or has executed the declaration or on whose behalf the declaration is executed.

8. "Declaration" means the instrument by which property is submitted to the provisions of the *Iowa Horizontal Property Act* or the *Multiple Housing Act* and this chapter, as herein after provided, and such declaration as from time to time is amended.

9. "Filing" means the complete submission of all documents required by Section 164.08 with a stamped date of filing contained thereon.

10. "General common elements," unless otherwise provided in the declaration or lawful amendments thereto, means and includes:

A. The land on which the building is erected;

B. The foundations, basements, floors, exterior walls of each apartment and of the building, ceilings and roofs, halls, lobbies, stairways, and entrances and exits or communication ways, elevators, garbage incinerators and in general all devices or installations existing for common uses;

C. Compartments or installations of central services for public utilities, common heating and refrigeration units, reservoirs, water tanks and pumps servicing other than one apartment;

D. Premises for lodging of service personnel speed engaged in performing services other than services within a single apartment.

11. "Limited common elements" means and includes those common elements which are specified in or determined under the declaration to be reserved for the use of one or more apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.

12. "Multiple-family dwelling" means a building containing two or more dwelling units.

13. "Property" includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.

14. "Regulations" means those regulations promulgated by the Council.

15. "Unit" means a part of the property including one or more rooms, occupying one or more floors or part or parts thereof, designed and intended for any type of independent use, and having lawful access to a public way.

164.06 CREATION OF A CONDOMINIUM OR HORIZONTAL PROPERTY REGIME. All parties wishing to create a condominium, other than a conversion, shall comply with the *Iowa Horizontal Property Act* and/or *Multiple Housing Act* as adopted by this chapter in addition to all existing building, electrical, mechanical and fire codes and regulations.

164.07 CONVERSIONS – STRICT COMPLIANCE. No person shall convert any apartment building into a condominium without complying with each and every one of the requirements of this chapter, in addition to all other applicable laws and ordinances. A conversion of an existing structure to condominium ownership shall not constitute a change in use except as specified generally in existing City codes and ordinances.

164.08 CONVERSION PHYSICAL ELEMENTS REPORT. A report of the physical elements of all structures and facilities shall be submitted with the tentative conversion plans and drawings. The report shall include, but not be limited to the following:

1. A report detailing the structural condition of all elements of the property including foundations, electrical, plumbing, utilities, walls, ceilings, windows, hallways, stairways and stairwells, elevators, exits, fire escapes, laundry rooms, porches, balconies, smoke detectors, fire and emergency alarm units, recreational facilities, sound transmission of each building, mechanical equipment, parking facilities, and appliances. Regarding each such element, the report shall state, to the best knowledge or estimate of the applicant, any variation of the physical condition of said element from the current zoning and from the City housing and building ordinances in effect on the date that the last building permit was issued for the subject structure.

2. A statement of repairs and improvements to be made by the subdivider necessary to meet the current code standards.

3. Additional submittals as necessary or requested to comply with the current *Horizontal Property Act* or *Multiple Housing Act.*

4. Specific information concerning the demographic characteristics of the project, including but not limited to the following:

A. Square footage and number of rooms in each unit;

B. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving Federal or State rent subsidies;

C. Names and addresses of all tenants.

When the subdivider can demonstrate that such information is not available, this requirement may be modified or waived by the City Building Official.

5. Signed copies from each tenant of a receipt of notice of intent to convert, as specified in the Notice of Intent section following. The subdivider shall submit evidence that a certified letter of notification was sent to each tenant for whom a signed copy of said notice is not submitted.

6. Any other information which, in the opinion of the Council, will assist in determining whether the proposed project will be consistent with the purposes of this chapter.

164.09 ACCEPTANCE OF CONVERSION PHYSICAL ELEMENTS REPORT. The final form of the physical elements report and other documents shall be as approved by the Council. The reports in their acceptable form shall remain on file with the Clerk for review by any interested persons. The report shall be referenced in the subdivision report to the Planning and Zoning Commission.

164.10 HEARING CONCERNING CONVERSIONS. The Commission shall hold a hearing. Notice of the hearing shall be given to tenants of the proposed conversion and posted on the property.

164.11 STANDARDS FOR CONDOMINIUM CONVERSIONS.

1. Adequate Physical Condition. To achieve the purpose of this chapter, the Commission shall require that all condominium conversions conform to the City ordinances in effect at the time of tentative approval except as otherwise provided in this chapter. All pertinent provisions of the City ordinances must be met and violations corrected prior to the approval of the final plan or upon approval of the Council, funds shall be

adequately escrowed or bonded to assure completion of such corrective work, prior to the closing of escrow of any unit in the project.

2. Specific Physical Standards. The Commission shall require conformance with the standards of this section in approving the plan.

3. Building Regulations. The project shall conform to the applicable standards of the housing and building ordinances currently in effect.

4. Fire Prevention.

A. Smoke Detectors. Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to the latest U.B.C. standards.

B. Maintenance of Fire Protection System. All fire hydrants, fire alarm systems, portable fire extinguishers and other fire protective appliances shall be retained in an operable condition at all times.

5. Sound Transmission.

A. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment such as motors, compressors, pumps, and compactors which are a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner provided by the Building Inspector.

B. Noise Standards. The structure shall conform to all interior and exterior sound transmission standards of the building ordinances relating thereto. In such cases where present standards cannot reasonably be met, the Commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

6. Utility Metering. Each dwelling unit shall be separately metered for gas and electricity and water or a plan for equitable sharing of communal utilities shall be developed prior to final plan approval and included in the covenants, conditions, and restrictions. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Commission.

164.12 NOTICE OF INTENT TO CONVERT. A notice of intent to convert shall be delivered to each tenant. Evidence of receipt shall be submitted with the tentative plan. The form of the notice shall be as approved by the Building Official and shall contain not less than the following:

1. Name and address of current owner;

2. Name and address of the proposed subdivider;

3. Approximate date on which the tentative plan is proposed to be filed;

4. Approximate date on which the unit is to be vacated by non-purchasing tenants;

5. Approximate date on which the final plan is to filed; and

6. Tenant's right to purchase;

Other information may be required as deemed necessary.

164.13 TENANT'S RIGHT TO PURCHASE. Any present tenant or tenants of any unit shall be given a nontransferable right of first refusal to purchase the unit occupied at a price no greater than the price offered to the general public. The right of first refusal shall extend for at least sixty (60) days from the date of issuance of the report or commencement of sales, whichever date is later.

164.14 VACATION OF UNITS. Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which said tenant occupies his or her unit, shall have not less than one hundred twenty (120) days from the date of receipt of notification from the subdivider of his or her intent to convert, or from the filing date of the final plan approval, whichever date is later, to find substitute housing and to relocate.

164.15 SPECIAL CASES. Any non-purchasing tenant aged sixty-two (62) or older or disabled or with minor children in school shall be given additional time not to exceed six (6) months in which to find suitable replacement housing.

164.16 EQUAL OPPORTUNITY. No person shall be denied the right to purchase or lease a condominium unit because of race, color, sex, marital status, national origin, or physical disability.

164.17 ACCESS.

1. The tenant in a conversion condominium shall not unreasonably withhold consent to the declarant to enter the unit in order to inspect the premises, make necessary or agreed repairs, supply necessary or agreed services, or show the unit to prospective or actual workers or purchasers. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency, or unless it is impracticable to do

so, the landlord shall give the tenant at least two days' notice of the intent and may enter only at reasonable times.

2. The declarant shall not undertake remodeling for conversion of a unit while it is occupied by a tenant without the tenant's written consent, or create any unreasonable disruption of the common areas, including but not limited to restricting access thereto, or interfere with the quiet use and enjoyment of the premises, or abuse the right of access or use it to harass the tenant.

164.18 PAYMENT OF ASSESSMENTS. The declarant shall be required to pay all assessments on condominium units which he/she owns pursuant to State law.

164.19 ADMINISTRATION. The City Building Official shall administer this chapter. An application fee of two hundred dollars ($200.00) plus twenty-five dollars ($25.00) per unit shall be charged for conversion condominiums. This is in addition to other applicable fees. For new construction of condominiums, an additional fee of ten percent (10%) of the fee charged pursuant to the Building Code shall be charged hereunder or a fee of twenty dollars ($20.00), whichever is greater. Said fees do not apply to the resale of individual units by any owners thereof.

164.20 CRITERIA FOR CONSIDERATION FOR CONVERSIONS. In reviewing requests for conversion of existing apartments to condominiums, the Commission shall consider the following:

1. Whether or not the amount and impact of the displacement of tenants if the conversion is approved would be detrimental to the health, safety, or general welfare of the community.

2. The role that the apartment structure plays in the existing housing rental market. Particular emphasis will be placed on the evaluation of rental structures to determine if the existing apartment complex is serving low- and moderate-income households. Standard definitions of low and moderate income and low- and moderate-income rents used by the Federal and State governments will be used in the evaluation. Along with other factors, the Council will consider the following:

A. The number of families on current waiting lists for assisted rental housing programs that operate in the City.

B. The probable income range of tenants living in existing apartments based on the assumption that households should pay between one-fourth and one-half of their income for housing. That income range will be compared with existing income limits

program to determine whether potential displaced tenants can be categorized as low and moderate income.

3. The need and demand for lower-cost home ownership opportunities which are increased by the conversion of apartments to condominiums.

4. If the Commission determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the tentative plan may be disapproved. In evaluation of the current vacancy level under this subsection, the increase in rental rates for each unit over the preceding five (5) years and the average monthly vacancy rate for the project over the preceding two (2) years shall be considered.

164.21 REQUIREMENTS FOR APPROVAL OF CONVERSIONS. The Commission shall not approve an application for condominium conversion unless the Commission finds that:

1. All provisions of this chapter are met unless waived.

2. The proposed conversion is consistent with the City Plan.

3. The proposed conversion will conform to the City ordinances in effect at the time of tentative plan approval, except as otherwise provided in this chapter.

4. The proposed conversion will not displace a significant percentage of low- and moderate-income or senior citizen tenants and delete a significant number of low- and moderate-income rental units from the City's housing stock at a time when no equivalent housing is readily available in the area.

164.22 PENALTY; OTHER REMEDIES. The general penalty provisions of this Code of Ordinances shall apply. This provision shall be in addition to all available remedies provided by the State Code and remedies at law or equity.

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CHAPTER 165

SIGN CODE

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165.01 TITLE; SCOPE; PURPOSE. This chapter may hereafter be known and cited as the "Sign Code." The provisions of this chapter shall govern the construction, repair, erection, alteration, location and maintenance of privately owned outdoor signs and outdoor advertising and identification devices of every kind, together with their appurtenant and auxiliary devices. The sign regulations are found and declared to be necessary and proper to the following purposes:

1. To protect property values within the City.

2. To prevent the occurrence of urban blight and slum conditions.

3. To protect the general public from damage and injury which may be caused by the faulty and unregulated use of signs.

4. To prevent any unreasonable appropriation of the public domain, its open spaces, streets and ways to private use.

5. To restore, preserve and promote aesthetic character in the City.

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

1. "Awning sign" means any sign affixed directly on or attached to an awning.

2. "Canopy sign" means any sign mounted on or supported by a canopy.

3. "Ground sign" means any sign supported by one or more uprights or braces placed upon or set into the ground.

4. "Illuminated sign" means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

5. "Marquee sign" means any sign mounted on or supported by a marquee.

6. "Off premises" means signs not located at the site of that which is advertised or identified.

7. "On premises" means signs located at the site of that which is advertised or identified.

8. "Projecting sign" means any sign other than a wall sign which is attached to a building and extends beyond the line of said building.

9. "Roof sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building.

10. "Sign" means any advertising device or surface, on or off premises, which conveys information or identification.

11. "Sign structure" means an element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free standing, attached to a building, an integral part of the building, or combination thereof.

12. "Structural member" means a component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stress other than their own weight, and functioning as an in-fill or nonstructural enclosure.

13. "Temporary and/or portable sign" means any sign, banner, pennant or valance to be displayed for a limited time only, or any sign set upon the ground unsecured. A portable sign is any sign set upon or affixed to any device or ground with wheels or skids or framing so as to afford portability by persons or auxiliary devices.

14. "Wall sign" means a sign, impressed or painted on, or attached to a wall with the exposed face of the sign in a plane approximately parallel to the plane of the wall.

165.03 MEASUREMENT STANDARDS. If a sign has two (2) or more faces, the area of all faces shall be included in determining the total area of the sign, except that if two sign faces are placed back to back, and are at no point more than thirty (30) inches from one another, the area of the sign shall be

taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

165.04 SIGN PERMIT FEES. It is unlawful for any person to erect, alter structurally or relocate within the City any sign without first obtaining a permit from the Building Official. The fee shall be set at a rate equal to a building permit fee as established by resolution of the City Council.

(Ord. 2100 – Aug. 07 Supp.)

165.05 APPLICATIONS FOR PERMITS. Applications for permits shall be made upon blanks provided by the Building Official and shall contain or have attached thereto the following information:

1. The name, address and telephone number of the applicant.

2. The location of building, structure or lot where the sign is to be located.

3. Position of signs in relation to nearby buildings or structures.

4. Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or on the ground.

5. Written consent of the owner of the building, structure, or land to which or on which the sign is to be erected. The lease between landlord and tenant will constitute written consent.

6. Such other information as the Building Official shall require to show full compliance with this and all other laws and ordinances of the City which may be applicable, including the intended duration of temporary signs.

165.06 ILLUMINATED SIGNS; APPROVAL BY BUILDING OFFICIAL. The application for a permit for erection of a sign in which electrical wiring and connections are to be used shall be submitted to the Building Official. The Building Official shall examine the plans and specifications with respect to all wiring and connections to determine if the same specifications comply with applicable electrical codes prior to submission of the application for final approval or disapproval.

165.07 ISSUANCE OF PERMIT. It is the duty of the Building Official upon the filing of an application for a permit to examine such plans and specifications and other data and the premises upon which it is proposed to

erect the sign, and if it appears that the provisions of the sign regulations and all other laws and ordinances of the City are complied with, the Building Official shall then issue the permit. If the work authorized by such permit is not completed in sixty (60) days after the date of its issuance, such permit shall become null and void.

165.08 INSPECTION. The Building Official may inspect signs subject to the provisions of the sign regulations for the purpose of determining whether the same is in compliance with the sign regulations.

165.09 PERMIT REVOCATION. If the Building Official shall find that any sign subject to the sign regulations is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of the sign regulations, the Building Official shall give written notice thereof to the person in possession and control of the premises on which the sign is located. If such person fails to remove or alter the sign so as to comply with the provisions of the sign regulations within thirty (30) days of such notice, such person commits a municipal infraction. If a sign is an immediate hazard, the Building Official may cause it to be removed immediately. A permit for a sign is a license revocable at any time by the Council subsequent to notice to the permittee and an opportunity for the permittee to be heard by the Council.

165.10 CONSTRUCTION. All signs shall be constructed in such a manner and installed with such materials so as to be considered safe and substantial by the Building Official. The Building Official may require a copy of stress sheets and calculations showing the structures as designed for dead load and wind velocity in the amount required by the *Uniform Building Code* adopted by the City.

165.11 MAINTENANCE PROVISIONS. Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.

165.12 REMOVAL OF CERTAIN SIGNS. Any sign now or hereafter existing which, for a period of six (6) months, no longer advertises a bona fide business conducted or a product sold or a service offered shall be taken down and removed by the owner or owners of the building or premises upon which it is located within thirty (30) days of written notice from the Building Official.

165.13 PROHIBITIONS. No person shall have or permit on any premises:

1. Any permanent sign which consists of or incorporates pennants, twirler lights, pinwheels, whirligigs or other displays or devices which are designed to be activated by atmospheric conditions so as to attract or distract the attention of the public by virtue of their movements.

2. A ground sign which extends onto or over public property.

3. Any sign which employs flashing, blinking or rotating lights, except time and temperature signs.

4. Any off premises sign nearer than three hundred fifty (350) feet radius to any other off premises sign.

5. Any off premises sign exceeding three hundred (300) square feet or containing more than two (2) surfaces back to back.

6. Any off premises sign in the following zoning districts in the City: R-1, R-2, R-3, R-4, R-5, R-6 and R-7.

7. Signs attached to or placed upon rocks, fences, trees or utility poles, except as approved by the Council.

165.14 EXEMPTIONS FROM PERMITS. The following signs shall not require a permit; however, such signs shall be subject to the sign regulations:

1. Non-electrical real estate signs not exceeding six (6) square feet in area, which advertise the sale, rental or lease of the premises upon which said signs are located only.

2. Non-electrical signs, including bulletin boards, which are not over sixteen (16) square feet in area for public, educational, charitable, fraternal or religious institutions when the same are located on the premises of such institution.

3. Non-electrical signs denoting only the name and profession/business of an occupant in a commercial building, public institutional building or dwelling house and not exceeding two (2) square feet in area.

4. A non-electrical single sign denoting the architect, engineer or contractor when placed upon work under construction and not exceeding thirty-two (32) square feet in area.

5. Non-electrical memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

6. Publicly owned street name signs, traffic control signs, legal notices, railroad crossing signs, danger and temporary warning or emergency signs; and emblems, names, logos and symbols on motor vehicles and equipment being used for purposes other than the display of signs or advertising devices.

7. Non-electrical public service signs which give only directions "in and out" or signs which provide only information about directing people to ancillary facilities such as parking, entrances, etc.

8. A non-electrical temporary sign supporting a candidacy for office or urging action on any other matter on the ballot of a primary, general or special election, or City election.

9. A non-electrical temporary or portable sign.

165.15 OBSTRUCTION OF DOORS, WINDOWS OR FIRE ESCAPES. No person shall erect, locate or maintain any sign so as to prevent free ingress to or egress from any door, window or fire escape. No person shall attach any sign of any kind to a stand pipe or fire escape.

165.16 SIGNS NOT TO CONSTITUTE TRAFFIC HAZARDS. No person shall erect any sign at the intersection of any street in such a manner as to obstruct free and clear vision of such intersection, or at any location where by reason of the position, shape or color it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

165.17 REFLECTOR LIGHTS. Lighting shall be permitted on signs; provided, however, the reflectors shall be provided with proper lenses, concentrating the illumination on the area of the sign so as to prevent glare upon the street or adjacent property.

165.18 SPOTLIGHTS AND FLOODLIGHTS. It is unlawful for any person to have any sign which is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrian or vehicular traffic.

165.19 ON PREMISES SIGNAGE.

1. For all signs subject to the sign regulations, in agricultural, commercial and industrial zoning districts in the City, except planned commercial and industrial districts, there may be three (3) square feet of signage for each foot of building frontage. Where any side of a building abuts on an alley, only painted-on wall signs shall be permitted on the side abutting the alley. Such sign shall be calculated as part of total permissible signage.

2. For all signs subject to the sign regulations in residential zoning districts in the City, only the following signs are permitted:

A. Real estate signs not exceeding six (6) square feet in area, which advertise the sale, rental or lease of the premises upon which said signs are located only.

B. Signs, including bulletin boards, which are not over sixteen (16) square feet in area for public, educational, charitable, fraternal or religious institutions when the same are located on the premises of such institution.

C. Signs denoting only the name and profession/business of an occupant in a commercial building, public institutional building or dwelling house and not exceeding four (4) square feet in area.

D. A single sign denoting the architect, engineer or contractor when placed upon work under construction and not exceeding thirty-two (32) square feet in area.

E. Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

F. Publicly owned street name signs, traffic control signs, legal notices, railroad crossing signs, danger and temporary warning or emergency signs; and emblems, names, logos and symbols on motor vehicles and equipment being used for purposes other than the display of signs or advertising devices.

G. Public service signs which give only directions “in and out” or signs which provide only information about directing people to ancillary facilities such as parking, entrances, etc.

H. A temporary sign supporting a candidacy for office or urging action on any other matter on the ballot of a primary, general or special election, or City election.

I. A temporary or portable sign.

J. Signs bearing the name and address of a residential development having a character of design and construction in harmony with that of the development itself, and not exceeding thirty-two (32) square feet in area. Such signs may be incorporated in or affixed to fences or walls, provided that all applicable standards and requirements contained in this chapter or other provisions of this Code of Ordinances are complied with.

165.20 SIGN SUPPORT AND ANCHORAGE. All signs shall be of such a design that all framework for the support of the sign shall be contained within the sign's body or within the structure of building to which it is attached in such a manner as not to be visible to any person.

165.21 GROUND SIGNS. All ground signs subject to sign regulations shall meet the following requirements:

1. All letters, figures, characters or representations in cut out or irregular form maintained in conjunction with or attached to or superimposed upon any ground sign shall be safely and securely built or attached to the sign's structure.

2. Signs and location:

A. It is unlawful to erect or permit any ground sign of a height greater than fifty (50) feet.

B. Off premises ground signs will be permitted to have a maximum of three hundred (300) square feet of sign surface on a side.

C. No ground sign shall be erected or permitted nearer the street than the property line; provided, however, such placement is not in conflict with property lines. No part of said sign shall be permitted to overhang the public domain.

D. The minimum distance between on premises ground signs on any one business location shall be fifty (50) feet.

3. The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all obnoxious substances, rubbish, litter and weeds.

165.22 WALL SIGNS. Wall signs subject to the sign regulations shall meet the following location requirements:

1. Limitation on Placement. No wall sign shall cover wholly or partially any wall opening or project beyond the ends or tops of the wall to which it is attached.

2. Projection Over Public Property. No wall sign shall be erected in a place which is more than twelve (12) inches over the surface of any public right-of-way.

3. Alleys. Only wall signs painted on the wall of a building will be permitted.

165.23 ROOF SIGNS.

1. Materials. The uprights, supports and braces thereof shall be constructed of materials as set forth in the *Uniform Building Code* adopted by the City.

2. Height Limitations. No roof sign shall have its highest point extend more than ten (10) feet above the roof level upon which erected.

3. Setback From Roof Edge. No roof sign shall be erected or maintained with a face thereof nearer than five (5) feet to the outside wall toward the sign faces.

4. Prohibited Obstructions. No roof sign shall be placed on the roof of any building or structure in such manner as to prevent free passage from one part of said roof to another part thereof, or interfere with openings on said roof.

5. Bracing, Anchorage and Supports. Every roof sign shall be thoroughly secured to the building by iron or other metal anchors, bolts, supports, rods or braces. The sign supports shall be anchored into the basic building structure, roof joists or roof girders. The bearing points of such sign may bear on masonry walls or intermediate steel columns in the building or shall be supported or anchored to the structural members of the building.

6. Off Premises. Off premises roof signs shall not be permitted.

165.24 PROJECTING SIGNS. All projecting signs subject to the sign regulations shall meet the following requirements:

1. Support. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural members of the building to the ground in such manner as not to overstress any of the elements thereof.

2. Limitations on Glass. The lettering or advertising design to be illuminated on projecting signs may be composed of glass or other transparent or semi-transparent material. Any glass forming a part of any sign shall be safety glass or wire glass.

3. Movable Parts to be Secured. Any movable parts of a projecting sign such as a cover of a service opening shall be securely fastened by safety chains or hinges.

4. Height Limitations. The top line of the projecting sign shall not be higher than the roof or parapet line of the building to which attached, except that when the roof line is less than fifteen (15) feet in height, the

sign may extend three (3) feet above; but under no circumstances shall the top line of a projecting sign be permitted at a height of more than fifty (50) feet above ground level.

5. Thickness Limitations. The distance measured between the principal faces of any projecting sign shall not exceed eighteen (18) inches.

6. Location. The bottom line of every projecting sign shall be placed at least ten (10) feet above any public sidewalk over which it is erected. A maximum extension of six (6) feet will be permitted providing it is no nearer than two (2) feet from the curb line. No projecting signs shall be erected in an alleyway. No projecting signs shall project across or over any portion of a public roadway. The minimum distance between projecting signs on any one business location shall be fifty (50) feet.

165.25 TEMPORARY AND/OR PORTABLE SIGNS. Temporary and/or portable signs subject to the sign regulations shall meet the following requirements:

1. A banner shall not exceed one hundred (100) square feet in area. All other temporary and/or portable signs shall not exceed thirty-two (32) square feet in area.

2. Advertisement or announcement contained on any temporary and/or portable sign shall pertain only to civic, political, religious, fraternal or other nonprofit activities. Temporary or portable signs for the purpose of commercial advertising are prohibited, except for announcement of special one-time sales or one-time events or occurrences not to exceed fifteen (15) days. No temporary or portable sign shall be displayed longer than fifteen (15) consecutive days, except that political campaign signs and signs pertaining to any election or ballot issue in an election may be displayed any length of time but shall be removed by the person in possession and control of the property on which they are displayed, not later than five (5) days following the election to which said signs shall pertain.

165.26 MARQUEE SIGNS. Marquee signs subject to the sign regulations shall meet the following provisions:

1. Signs attached to or placed upon the roof of a marquee shall be completely within the border line of the marquee's outer edge.

2. Signs hung from a marquee shall be completely within the border line of the marquee's outer edge and in no instance shall the bottom of said sign be lower than seven and one-half (7½) feet above the sidewalk

or public thoroughfare. No hanging or suspended sign shall exceed eighteen (18) inches in height overall.

165.27 AWNING AND CANOPY SIGNS. No advertising sign shall be placed on an awning or canopy. The name of the owner and the business, industry or pursuit conducted within the premises may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height on the front and side portions thereof, or on signs suspended beneath a canopy, but no portion thereof may be lower than seven and one-half (7½) feet above a sidewalk.

165.28 NONCONFORMING SIGNS. Signs in existence on February 13, 1991, when these sign regulations became effective, may continue in existence subject to Sections 165.08, 165.09, 165.11 and 165.12 and also subject to the following:

1. A sign shall not be altered structurally or moved unless it is made to comply with the provisions of this chapter, except that the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or re-posting of display matter shall not be deemed a structural alteration.

2. The lawful use of a sign existing on February 13, 1991, although such sign does not conform to the provisions of this chapter, may continue; but if such nonconforming use is discontinued for a period of sixty (60) days, any future use of such sign shall be in conformity with the provisions of this chapter.

3. No sign which has been damaged by fire, wind, explosion or other act of God, to the extent that fifty percent (50%) or more of the sign is destroyed, shall be restored except in conformity with the regulations of this chapter. Any sign which has been damaged to an extent less than fifty percent (50%) may be restored to its condition which existed as a nonconforming use prior to its damage.

165.29 APPEALS. Anyone who wishes to appeal the decision of the Building Official may do so by submitting a written request for review to the Zoning Board of Adjustment. The Board will then schedule a hearing with notice to the party requesting the review at least ten (10) days prior to the hearing date by ordinary mail to the party's last known address. The decision of the Board is final.

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CHAPTER 170

FLOODPLAIN MANAGEMENT

170.01 Statutory Authority, Findings of Fact and Purpose
170.02 General Provision
170.03 Establishment of Floodplain (Overlay) District
170.04 Standards for Floodplain (Overlay) District
170.05 Administration
170.06 Nonconforming Uses
170.07 Penalties for Violation
170.08 Amendments
170.09 Definitions

170.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City of Boone are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City of Boone and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 170.01 (2)(A) of this chapter with provisions designed to:

A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood

damage at the time of initial construction or substantial improvement.

C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

170.02 GENERAL PROVISIONS.

1. Lands to Which Chapter Apply. The provisions of this chapter shall apply to all lands within the jurisdiction of the City of Boone which are located within the boundaries of the Floodplain (Overlay) District as established in 170.03.

2. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Building Official shall make the necessary interpretation. The Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this chapter.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

4. Abrogation and Greater Restrictions. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This

chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Boone or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

7. Severability. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

170.03 ESTABLISHMENT OF FLOODPLAIN (OVERLAY) DISTRICT. The areas within the jurisdiction of the City of Boone having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Boone County and Incorporated Areas, City of Boone, Panels 19015C0185C, 0195C, 0205C, 0215C, dated May 3rd, 2011.

170.04 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where floodway data and 100-year flood data have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the Floodplain (Overlay) District shall:

A. Be consistent with the need to minimize flood damage.

B. Use construction methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to flood damage.

D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such

elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of 170.04(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 170.04(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

170.05 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Zoning Administrator.

A. The Building Official is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain (Overlay) District.

(4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.

(5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Indication of the use or occupancy for which the proposed work is intended.

(4) Elevation of the 100-year flood.

(5) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

3. Variance.

A. The City Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

B. Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a floodplain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

(13) Such other factors which are relevant to the purpose of this chapter.

C. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

(1) Modification of waste disposal and water supply facilities.

(2) Limitation of periods of use and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

(5) Floodproofing measures.

170.06 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

170.07 PENALTIES FOR VIOLATION. Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a municipal infraction. All violations hereunder are classified as environmental offenses. Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

170.08 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

170.09 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base Flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

3. "Development" means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

4. "Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

5. "Existing Factory-Built Home Park or Subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

6. "Expansion of Existing Factory-Built Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. "Factory-Built Home" means any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. "Factory-Built Home Park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. "Flood Elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

11. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

13. "Floodplain Management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

14. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

15. "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. "Floodway Fringe" means those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. "Historic Structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. "Lowest Floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of 170.04(4)(A) of this chapter; and

B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and

D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "Minor Projects" means small development activities (except for filling, grading and excavating) valued at less than $500.

20. "New Construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

21. "New Factory-Built Home Park or Subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed

(including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community.

22. “One Hundred (100) Year Flood” means a flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

23. “Recreational Vehicle” means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. “Routine Maintenance of Existing Buildings and Facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;

C. Basement sealing;

D. Repairing or replacing damaged or broken window panes;

E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. “Special Flood Hazard Area” means the land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

26. “Start of Construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit

date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

28. “Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

29. “Substantial Improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement , or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after

the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

31. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

(Ch. 170 – Ord. 2169 – May 11 Supp.)

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CHAPTER 175

ZONING REGULATIONS

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175.01 ENACTMENT. There are hereby established comprehensive zoning regulations for the City of Boone, Iowa, and surrounding lands within two miles of the corporate limits of the City of Boone, Iowa, by dividing the incorporated and unincorporated area within two miles of the corporate limits into various districts and setting forth certain district standards and general provisions to: (i) regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residence or other purposes; and (ii) provide for the administration, enforcement and amendment thereof, in accordance with Chapter 414 Code of Iowa.

175.02 TITLE. This chapter shall be known and may be cited and referred to as the "Zoning Ordinance – City of Boone, Iowa."

175.03 PURPOSE. The regulations herein are adopted for the purposes of promoting the health, safety, morals, or general welfare of the City of Boone, Iowa, and particularly in the following respects:

1. To encourage an orderly and beneficial development of the City in accordance with a comprehensive plan of land use and population density; to take into account the suitability of various area or properties in the community for different types of land uses as indicated by existing conditions and facilities, population trends, building patterns and

techniques, economic activity and other existing conditions or trends affecting urban development.

2. To provide adequate light, air and privacy.

3. To help provide safety from fire, flooding, pollution and other major dangers.

4. To prevent overcrowding of the land with structures and congestion of population.

5. To protect and conserve the value of land and buildings within the City appropriate to the zoning district in which located.

6. To relate the intensity of land uses to the street and highway system to avoid congestion, and help provide safe and convenient traffic movements for vehicles and pedestrians.

7. To conserve and prevent pollution of existing land, water and air resources; to promote attractive site and building design; to encourage creation or preservation of beauty as part of the City's environment.

175.04 DEFINITIONS. For the purpose of this chapter, the words "used or occupied" include the words "intended, designed or arranged to be used or occupied"; the word "lot" includes the words "plot or parcel," and the following terms or words used herein shall be interpreted as follows:

1. "Accessory structure" means a subordinate building, structure or edifice ordinarily or normally incidental to or subordinate to the main building, structure or edifice. All accessory structures shall not be larger than the main or principal structure and shall comply with minimum yard requirements. Earth satellite receiving dishes are considered accessory structures.

2. ***(Repealed by Ord. 2145 – Sep. 09 Supp.)***

3. ***(Repealed by Ord. 2145 – Sep. 09 Supp.)***

4. ***(Repealed by Ord. 2145 – Sep. 09 Supp.)***

5. "Alley" means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.

6. "Apartment" means a room or suite of rooms in a multiple dwelling intended or designated for use as a residence by a single family.

7. "Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

8. "Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than two guest families are lodged at the same time in an R-2 District and no more than four guest families are lodged at the same time in an R-3 District. A bed and breakfast home can serve food only to overnight guests if in an R-2 District, but may serve food to groups of twenty people or less, by reservation only, if in an R-3 District. The facility can advertise as a bed and breakfast home, but not as a hotel, motel or restaurant. It may also advertise the service of food to groups by reservation only if in an R-3 District. All guest rooms must have an operable smoke detector. There shall be one off-street parking space per guest room in an R-2 and an R-3 District. In an R-3 District, there must also be a minimum of one off-street parking space for every four people to be served who are not overnight guests, plus a minimum of two off-street parking spaces for the owner.

9. "Bed and breakfast inn" means a hotel or motel which has nine or fewer guest rooms.

10. "Board" means the Board of Adjustment of the City.

11. "Boarding house" means a dwelling occupied by one family with three (3) or more boarders, roomers or lodgers in the same building who are lodged with or without meals and in which there are provided such services as are incidental to its use as a temporary residence for part of the occupants. A rooming house is deemed a boarding house.

12. "Building" means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals or property, but not including signs or billboards.

13. "Building, height of" means the vertical distance from the grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs. On a corner lot, the height is the mean vertical distance from the average natural grade at the building line, from the higher of the two (2) grades.

14. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

15. "Commission" means the City's Planning and Zoning Commission.

16. "District" means a section or sections of the City within which the regulations governing the use of the buildings and premises or the height and area of buildings and premises are uniform.

17. "Dwelling" means any building, or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or trailer coach.

18. "Dwelling, single-family" means a detached dwelling designed for or occupied exclusively for residence purposes of one family. For all new single-family detached dwellings for which building permits have been issued on or after November 21, 1984, the minimum dimension of the main body of the dwelling unit shall not be less than twenty-two (22) feet. This shall include factory-built structures, factory-built housing, modular homes, and manufactured homes.

19. "Dwelling, two-family (duplex)" means a building designed for or occupied exclusively by two families with separate housekeeping and cooking facilities for each.

20. "Dwelling, multiple" means a building or portion thereof designed for or occupied by more than two families with separate housekeeping and cooking facilities for each.

21. "Factory-built housing" means a factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.

22. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on a building site.

23. "Family" means one or more persons occupying a dwelling unit and living as a single housekeeping unit, but not including persons or groups of persons occupying a boarding house, hotel, motel, fraternity, sorority, monastery, or convent.

24. "Family home" means a community based residential home which is licensed as a residential care facility under Chapter 135C of the Code of Iowa or as a child foster care facility under Chapter 237 of the Code of Iowa to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. However, "family home" does not mean an individual foster care family home licensed under Chapter 237 of the Code of Iowa.

25. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and their storage, as well as for 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 for treating or storing the produce; provided, however, 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.

26. "Fences, walls and hedges" means decorative and/or enclosing devices used along boundary lines of lots. Fences, walls and hedges may be constructed up to the lot line in accordance with the height rules set out in this chapter.

27. "Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

28. "Garage, private" means an accessory building, or an accessory portion of the principal building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the principal building, except that a one-or two-car capacity garage may be rented for the private vehicles of persons not residents on the premises.

29. "Garage, public – automobile" means any building or premises other than a private garage) used for equipping, refueling, servicing, repairing, hiring, selling or storing automobiles, excluding body and fender repair shops.

30. "Garage, public – trucks" means any building or premises (other than a private garage) used for equipping, refueling, servicing, repairing, hiring, selling or storing trucks.

31. "Garage, public – farm tractors, and other mobile machinery" means any building or premises (other than a private garage) used for equipping, refueling, servicing, repairing, hiring, selling or storing farm tractors and other mobile machinery.

32. "Grade" means the elevation of the finished ground at the exterior walls of the main building.

33. "Home occupations" are limited to those occupations using facilities, equipment and materials normally found in the home and within accessory structures. Home occupations shall not produce noxious or toxic odors or fumes, nor increase in numbers or duration of

noise or traffic levels above those of ordinary residential use; nor use, store, or dispose of materials of a nature or quantity not ordinarily found in residential neighborhoods, which have the potential to endanger the health, safety, or peaceful enjoyment of their property or neighborhood residence, or to constitute a hazard to their environment.

34. "Hotel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding house or lodging house.

35. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including automobile, tractor, or machinery wrecking and used parts yards, and the processing of used, discarded or salvaged materials as part of manufacturing operations.

36. "Living space" means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls storage or utility space and similar areas, are not considered habitable space.

37. "Lodging house" means a building where lodging (only) is provided for compensation for four (4) or more persons.

38. "Lot," for zoning purposes, as covered in this chapter, is a parcel of land at least sufficient in size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a dedicated or private street and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;

D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

39. "Lot measurement" means:

A. Depth – the main horizontal distance between the front and rear lot lines;

B. Width – the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the front of the lot.

40. "Lot of record" means a lot which is part of a subdivision, the deed of which is recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

41. "Lot types" are illustrated in Plate 1 which is included the Appendix to this Code of Ordinances, and include "corner" lots, "interior" lots, "reversed frontage" lots and "through" lots.

42. "Manufactured home" means a factory-built, single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, *Federal Manufactured Home Construction and Safety Standards*, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. If so converted, it shall have a minimum width of twenty-two (22) feet on its shortest side, and the structure shall meet minimum front, rear and side yard requirements of the lot in its residential or other permitted zone. The mobile home shall be placed on a full permanent foundation as specified in the Building Code. The entire mobile home must be placed on the foundation including any additions or attachments. The mobile home shall be firmly anchored to the foundation in accordance with accepted practices in lieu of tie-downs. A mobile home not in place outside a mobile home park on the effective date of this section and not complying with the standards required for mobile homes since July, 1976, under the State Building Code shall not be permitted to be converted to real estate under section 135D.26 of the Iowa Code. Only mobile homes complying with the standards of safety and construction required since 1976, with a medallion and certificate of compliance may be placed outside a mobile home park after the effective date of this section. For the purpose of these regulations, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

43. "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 is factory-built housing built on a chassis. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. However, certain mobile homes may be classified as "manufactured homes." Nothing in this chapter shall be construed as permitting the mobile home in other than an approved mobile home park, unless such mobile home is classified as a manufactured home.

44. "Mobile home park" means any tract of land or portion thereof, upon which two (2) or more occupied mobile homes are located for dwelling or sleeping purposes regardless of whether or not a charge is made for such accommodation.

45. "Modular home" means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

46. "Motel motor lodge" means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facilities conveniently located to each such unit.

47. "Nonconforming use" means use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

48. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm aged, convalescent or physically disabled persons, not including insane and other mental cases, inebriate or contagious cases.

49. "Parking space" means a permanently surfaced area of not less than two hundred (200) square feet, either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle, together with a surfaced driveway connecting the parking space with a street or alley.

50. "Principal building" means any structure designed and used or intended to be used for one of the "principal permitted uses" listed in each of the zoned districts as set out in this chapter.

51. "Principal permitted uses" designated under this chapter are to be considered as guidelines. The administrating officer shall use his or her discretion in determining proper applications of use within these guidelines.

52. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement or unused under-floor space shall be considered as a story.

53. "Story, first" means the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.

54. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level. A half story containing independent apartments or living quarters shall be counted as a full story.

55. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

56. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street.

57. "Structural alterations" means any replacement or changes in the type of construction or in the supporting members of a building, such as load bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

58. "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include building, walls, fences, billboards and poster panels.

59. "Tourist home" means a residential building in which rooms are available for rental purposes as overnight sleeping accommodations primarily for automobile travelers.

60. "Truck gardening" means an operation that grows vegetables for delivery to a retail (market) establishment.

61. "Wind Energy Conservation System" (WECS) means any device which converts wind energy to a form of usable energy, including wind charges, windmills or wind turbines.

62. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure or parking lot from the ground upward, excepting as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, or width of a side yard, the least distance between the lot line and the main building shall be used, except that in no case shall any eave or overhang (or any other project) extend into the said front, side or rear yard by more than twenty-four (24) inches. If eaves or overhangs exceed 24 inches, then the building shall be set back into the permissible building area as necessary to eliminate any eaves or overhangs from extending more than 24 inches. Fences and walls are permitted in any yard, subject to height limitations as indicated herein.[†]

A. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the front of the main building other than the projection of the usual steps or unenclosed porches. See "yard" for eave or overhang limitations.

B. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the building other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots, rear yard is the opposite end of the lot from the front. See "yard" for eave or overhang limitations.

C. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. See "yard" for eave or overhang limitations.

63. "Zoning permit" means the permit issued by the Building Official of the City, authorizing the use of the land for the purpose specified in the document.

[†] **EDITOR'S NOTE:** See Illustration 1 in Appendix to this Code of Ordinances.

175.05 ESTABLISHMENT OF DISTRICTS AND PROVISION OF OFFICIAL ZONING MAP. For the purpose of this chapter, the following types of districts are hereby established.

A-1 Agricultural District
R-1 Single-Family Residential District
R-2 One- and Two-Family Residential District
R-3 Multi-Family Residential District
R-4 Permanent Mobile Home District
R-5 Mobile Home Park District
R-6 Planned Unit Development District
R-7 Estate Residential District
C-1 Special Commercial District
C-2 Limited Commercial District
C-3 General Commercial District
C-4 Planned Commercial District
M-1 Special Planned Commercial, Office or Industrial District
M-2 Planned Commercial, Office or Industrial District
M-3 Light Industrial District
M-4 General Industrial District
MU Mixed Use Overlay District
U-1 Conservancy District
HM Hospital-Medical District

175.06 ZONING MAP. The boundaries of these districts are indicated upon the official zoning map of the City, which map is made part of this chapter by reference hereto. The official zoning map of the City of Boone which is kept in a digital format and all the notations, references and other matters shown thereon shall be as much a part of this chapter as if the notations, references, and other matters set forth by said map were all fully described herein. The official zoning map shall be kept by the City Clerk who shall when required attest to its authenticity. If in accordance with the provisions of this chapter and Chapter 414 of the Code of Iowa, changes are made in district boundaries or other matters portrayed in the Official Zoning Map, said changes shall be recorded by the Clerk on the official zoning map promptly after the amendment has been approved by the City Council. 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 means the zoning map kept in the digital format together with amending ordinances, shall be the final

authority as the current zoning status of land and water area, buildings, and other structures in the City and in those surrounding lands within two miles of the corporate limits of the City of Boone, Iowa. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of use, the Council may by resolution 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 omission 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 as set forth above and shall contain 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 replaces) by the City of Boone, Iowa."

(Ord. 2206 – Dec. 14 Supp.)

175.07 INTERPRETATION OF STANDARDS AND BOUNDARIES. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provision of law or by other rules or regulations or ordinances, the provisions of this chapter shall control. Where uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following rules shall be used in determining the location of said district boundary:

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 approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.

6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.

[The next page is 1243]

175.08 A-1 AGRICULTURAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the A-1 Agricultural District:

1. Uses Permitted. Only those uses listed specifically, or by reference or by description, are deemed permitted uses; all others are deemed not permitted in this district.

A. Farms, farm uses, customary farm occupations, plant and tree nurseries, truck gardening, greenhouses and wholesale or retail sales in conjunction with same, provided that: (a) all processed goods offered for sale shall be stored in fully enclosed structures; and (b) for wholesale or retail sales the gross floor area of such use shall not be greater than 800 square feet.

B. One-family dwellings.

C. Churches, other places of worship and accessory buildings.

D. Governmental uses including library, park, playground, community center, offices and garages.

E. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

F. Public, parochial and private schools.

G. Social or cultural use serving a community need or convenience, not carried on primarily for profit, and including clubs, lodges, fraternities, other service groups in accordance with the provisions of subsection 175.29(11).

H. Railroad right-of-ways and trackage, public utility distribution lines and sub-stations serving a local area.

I. Accessory buildings and uses as provided and regulated herein.

J. Individual or collective private water supply and sewage facilities.

K. Storage of auto trailers, unoccupied mobile homes, camping trailers or boats, provided same are not stored within front yard of any lot on which a main building is located, or if on a vacant lot to be shielded from view of the adjacent lots by a six-foot (6′) high, solid type fence or other equal screening.

L. Wind Energy Conservation Systems (WCES), as a conditional use.

2. Building Height Limit. For a residence building, 2½ stories, but not exceeding 35 feet in height; for a non-residence building, not exceeding 60 feet in height; and for an accessory structure not exceeding sixteen 16 feet in height.

3. Minimum Lot Area. One acre. However, all lots sold, transferred, or developed up to five acres outside the City limits but within the two-mile area surrounding the City, are subject to a waiver of objecting to future annexation by the City of Boone.

4. Minimum Lot Width. Not less than 50 percent of the depth.

5. Minimum Front Yard Depth. 75 feet.

6. Minimum Side Yard Width.

A. Dwelling: total side yard – 30 feet; minimum on one side – 10 feet; corner lot adjacent to street – 75 feet.

B. Other Permitted Uses: 50 feet on each side, unless otherwise indicated herein.

7. Minimum Rear Yard Depth. 50 feet.

8. Off-Street Parking. In accordance with Section 175.28.

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175.09 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the R-1 Single-Family Residential District.

1. Uses Permitted. Only those uses listed specifically, or by reference or by description, are deemed permitted uses; all others are deemed not permitted in this district.

A. One-family dwellings.

B. Churches, other places of worship, and accessory buildings.

C. Governmental uses including library, park, playground, community center, offices and garage.

D. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

E. Public, parochial and private schools.

F. Social or cultural use serving a community need or convenience, not carried on primarily for profit, and including clubs, lodges, fraternities, other service groups in accordance with the provisions of Section 175.29(11).

G. Railroad right-of-ways and trackage, public utility distribution lines and sub-stations serving a local area.

H. Accessory buildings and uses as provided and regulated herein.

I. Individual or collective private water supply and sewage facilities.

J. Storage of auto trailers, unoccupied mobile homes, camping trailers or boats provided same are not stored within front yard of any lot on which a main building is located, or if on a vacant lot to be shielded from view of the adjacent lots by a six-foot (6′) high, solid type fence or other equal screening.

K. Nursery schools, child care nurseries.

L. Customary home occupations such as handicraft, dressmaking, millinery, laundering, preserving and home cooking, provided that such occupations are conducted solely by resident occupants in their place of abode and provided that no more than one-quarter (¼) of the area of one floor shall be used for such purpose, and provided further that such occupation does

not require external or internal alterations or the use of mechanical equipment not customary in dwellings.

M. Family Home.

2. Building Height Limit. For a residence building: 2½ stories, but not exceeding 35 feet in height; for a non-residence building, not exceeding 60 feet in height; and for an accessory structure not exceeding 16 feet in height.

3. Minimum Lot Area. 11,000 square feet for each one-family dwelling together with its accessory buildings and not less than 16,000 square feet for any other permitted uses; however, where public sewer and water facilities are not available, not less than 20,000 square feet for any permitted use.

4. Minimum Lot Width. 80 feet. Where public sewer and water facilities are not available, 100 feet.

5. Minimum Front Yard Depth. 30 feet. When fronting on the right-of-way of a City primary or arterial street, as designated by the City Council, the front yard shall be at least 40 feet.

6. Minimum Side Yard Width. (Each Side). 9 feet for a one-family dwelling and 15 feet for any other principal building. On lots of record under separate ownership from adjacent lots before February 3, 1969, one side yard may be reduced to not less than 5 feet. On a corner lot, only the interior side yard may be so reduced.

7. Minimum Rear Yard Depth. 30 feet for a dwelling and 45 feet for any other building.

8. Off-Street Parking. In accordance with Section 175.28.

9. Construction Requirements. The facing material of the exterior of the front of any building, other than residential or accessory, must be constructed of the equivalent of at least 30% of the entire outside wall surface with a clay masonry material or approved equal. If the 30% requirement is not met by constructing the front facing with masonry or an equivalent, then the remainder must be placed on the remaining three walls. The clay masonry or equivalent shall be stone, finished face precast concrete, ceramic tile or others approved by the Commission. The outside wall surface shall be measured from the eave or coping line to the grade line. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this

determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

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175.10 R-2 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the R-2 One- and Two-Family Residential District.

1. Uses Permitted. Only those uses listed specifically, or by reference or by description, are deemed permitted uses; all others are deemed not permitted in this district.

A. One-family dwellings.

B. Two-family dwellings.

C. Churches, other places of worship, and accessory buildings.

D. Governmental uses including library, park, playground, community center, offices and garage.

E. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

F. Public, parochial and private schools.

G. Social or cultural use serving a community need or convenience, not carried on primarily for profit, and including clubs, lodges, fraternities, other service groups in accordance with the provisions of Section 175.29(11).

H. Railroad right-of-ways and trackage, public utility distribution lines and sub-stations serving a local area.

I. Accessory buildings and uses as provided and regulated herein.

J. Individual or collective private water supply and sewage facilities.

K. Storage of auto trailers, unoccupied mobile homes, camping trailers or boats provided same are not stored within front yard of any lot on which a main building is located, or if on a vacant lot to be shielded from view of the adjacent lots by a six-foot (6′) high, solid type fence or other equal screening.

L. Nursery schools, child care nurseries.

M. Customary home occupations such as handicraft, dressmaking, millinery, laundering, preserving and home cooking, provided that such occupations are conducted solely by resident occupants in their place of abode and provided that no

more than one-quarter (¼) of the area of one floor shall be used for such purpose, and provided further that such occupation does not require external or internal alterations or the use of mechanical equipment not customary in dwellings.

N. Small personal service shops such as beauty parlor, barber shop, photography, music, dancing or art studios, appliance or tool repair, office machines repair, upholstery shop, or bicycle repair, provided the same is conducted within a fully enclosed structure and that the total floor area devoted to any one or combination of uses does not exceed 500 square feet. The primary owner/operator of said business shall be the resident of the property. Any other use request shall be made to the Commission for review, after which the Commission will make its recommendation to the Council for the Council to approve or disapprove.

O. Bed and breakfast homes. A private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than two guest families are lodged at the same time. The facility can advertise as a bed and breakfast home, but not as a hotel, motel or restaurant. A bed and breakfast home can serve food only to overnight guests. All guest rooms must have an operable smoke detector. There shall be one off-street parking space per guest room and a minimum of two off-street parking spaces for the owner.

P. Family home.

2. Building Height Limit. For a residence building: 2½ stories, but not exceeding 35 feet in height; for a non-residence building, not exceeding 60 feet in height; and for an accessory structure not exceeding 16 feet in height.

3. Minimum Lot Area. 8,500 square feet for each one-family dwelling together with its accessory buildings and not less than 12,000 square feet for a two-family dwelling or any other permitted main use; however, where public sewer and water facilities are not available, not less than 20,000 square feet for any permitted use.

4. Minimum Lot Width. 65 feet for a one-family dwelling and not less than 70 feet for a two-family dwelling or any other permitted main use. Where public sewer and water facilities are not available, 100 feet for any permitted use.

5. Minimum Front Yard Depth. 30 feet. When fronting on the right-of-way of a City primary or arterial street, as designated by the City Council, the front yard shall be at least 40 feet.

6. Minimum Side Yard Width (Each Side). 9 feet for a one- or two-family dwelling and 15 feet for any other principal building. On lots of record under separate ownership from adjacent lots before February 3, 1969, one side yard may be reduced to not less than 5 feet. On a corner lot, only the interior side yard may be so reduced.

7. Minimum Rear Yard Depth. 30 feet for a dwelling and 45 feet for any other building.

8. Off-Street Parking. In accordance with Section 175.28.

9. Zero Lot Line Two-Family Dwellings. If a two-family dwelling complies with all of the other requirements of R-2 Standards, and the common wall is built according to Chapter 5 of the *International Building Code* as adopted by the Council, the property may be divided and owned by two or more separate owners. After such a division, each dwelling unit shall be limited to single-family use. This subsection is an exception to subsection 175.29(2)(D) (Supplementary Regulations), authorizing a reduction of the lot size by the division explained above. No such "zero lot line" unit shall be constructed, nor any existing unit and property divided pursuant to this chapter, before the owner obtains a building permit and complies with all of the appropriate zoning and building regulations.

10. Construction Requirements. The facing material of the exterior of the front of any building, other than residential or accessory, must be constructed of the equivalent of at least 30% of the entire outside wall surface with a clay masonry material or approved equal. If the 30% requirement is not met by constructing the front facing with masonry or an equivalent, then the remainder must be placed on the remaining three walls. The clay masonry or equivalent shall be stone, finished face precast concrete, ceramic tile or others approved by the Commission. The outside wall surface shall be measured from the eave or coping line to the grade line. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

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175.11 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the R-3 Multi-Family Residential District.

1. Uses Permitted. Only those uses listed specifically, or by reference or by description, are deemed permitted uses; all others are deemed not permitted in this district.

A. One-family dwellings.

B. Two-family dwellings.

C. Apartment buildings, town houses, row dwellings and multiplex homes consisting of not more than six (6) horizontal jointed units in any single structure. Development of uses in this item shall be in accordance with the provisions of subsection 9 of this section.

D. Churches, other places of worship, and accessory buildings.

E. Governmental uses including library, park, playground, community center, offices and garage.

F. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

G. Public, parochial and private schools.

H. Social or cultural use serving a community need or convenience, not carried on primarily for profit, and including clubs, lodges, fraternities, other service groups in accordance with the provisions of Section 175.29(11).

I. Railroad right-of-ways and trackage, public utility distribution lines and sub-stations serving a local area.

J. Accessory buildings and uses as provided and regulated herein.

K. Individual or collective private water supply and sewage facilities.

L. Storage of auto trailers, unoccupied mobile homes, camping trailers or boats provided same are not stored within front yard of any lot on which a main building is located, or if on a vacant lot to be shielded from view of the adjacent lots by a six-foot (6′) high, solid type fence or other equal screening.

M. Nursery schools, child care nurseries.

N. Customary home occupations such as handicraft, dressmaking, millinery, laundering, preserving and home cooking, provided that such occupations are conducted solely by resident occupants in their place of abode and provided that no more than one-quarter (¼) of the area of one floor shall be used for such purpose, and provided further that such occupation does not require external or internal alterations or the use of mechanical equipment not customary in dwellings.

O. Small personal service shops such as beauty parlor, barber shop, photography, music, dancing or art studios, appliance or tool repair, office machines repair, upholstery shop, or bicycle repair, provided the same is conducted within a fully enclosed structure and that the total floor area devoted to any one or combination of uses does not exceed 500 square feet. The primary owner/operator of said business shall be the resident of the property. Any other use request shall be made to the Commission for review, after which the Commission will make its recommendation to the Council for the Council to approve or disapprove.

P. Boarding and rooming houses.

Q. Bed and breakfast homes. A private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time. The facility may serve food to overnight guests or groups not to exceed 20 individuals in each group, by reservation only. The facility can advertise as a bed and breakfast home as well as being available to serve groups by reservation only, but may not advertise as a hotel, motel or restaurant. All guest rooms must have an operable smoke detector. There shall be one off-street parking space per guest room and a minimum of one off-street parking space for every four people if food will be served to groups. These shall be in addition to two off-street parking spaces for the owner.

R. Family home.

2. Building Height Limit. For one- and two-family dwellings: 2½ stories, but not exceeding 35 feet in height; for multiple dwellings: 45 feet except that for each one foot that such building is set back beyond the required yards, one foot may be added to the height, but not to

exceed a maximum height of 65 feet; for dwelling groups, refer to subsection 9 of this section.

3. Minimum Lot Area. 7,000 square feet for each one-family dwelling, 8,000 square feet for each two-family dwelling, and an additional 2,500 square feet for each additional unit over two (2) units in one- or two-story multiple dwellings or an additional 2,000 square feet for each additional unit over two (2) units in dwellings of three (3) stories or more; and not less than 12,000 square feet for any other permitted use; however, where public sewer and water facilities are not available, not less than 20,000 square feet for one- and two-family dwellings, not less than 80,000 square feet for any multiple dwelling, not less than 20,000 square feet for any other permitted use.

4. Minimum Lot Width. For one- and two-family dwellings, 60 feet; for multiple dwellings, 100 feet; for any other permitted use, 70 feet.

5. Minimum Front Yard Depth. For one- and two-family dwellings, 30 feet. When fronting on the right-of-way of a City primary or arterial street, as designated by the City Council, the front yard shall be at least 40 feet. For multiple dwellings, 40 feet.

6. Minimum Side Yard Width (Each Side). 9 feet for a one- or two-family dwelling, 15 feet for 1-, 2- or 2½-story multiple dwellings or other main buildings; 25 feet for multiple dwellings of three or more stories.

7. Minimum Rear Yard Depth. 30 feet for a dwelling and 45 feet for any other building.

8. Off-Street Parking. In accordance with Section 175.28.

9. Apartment, Town House and Other Multi-Family Dwellings.

A. Any proposed street, whether to be offered for public dedication or not, or whether to be part of a proposed subdivision or not, shall be laid out and improved in accordance with the provisions of Chapter 177 of this Code of Ordinances.

B. All driveways and off-street parking areas shall be suitably graded and improved to provide a dust-free and well-drained parking surface. Suitable markings or signs shall be provided to indicate parking spaces, aisles, entrances and exits.

C. All buildings shall be served by a water supply and a sanitary sewer system satisfactory to and approved by the Council.

D. All development shall be in accordance with a site plan as approved by the Council, after review and recommendation by the Commission. The approved plan, and any conditions or modifications attached thereto, shall be filed with the Building Inspector.

10. Site Plan Required.

A. To assure that the layout and location of proposed buildings will be in conformity with the purposes and standards set forth for the District, a site plan shall be submitted for developments of six (6) living units or more, showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

(1) Location, use and height of buildings.

(2) Location and improvement of parking areas.

(3) Location, improvement and grade of all access driveways.

(4) Location of all existing and proposed underground utility lines and appurtenant structures.

(5) Layout, dimensions and markings for parking spaces.

(6) Locations and improvements of sidewalks, location and markings of all pedestrian ways within parking area.

B. To orient the site plan properly to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map:

(1) Area map showing all properties, streets, easements, streams, etc., within 200 feet of boundaries of site.

(2) Topography or selected elevation points to show existing grades and proposed final grades or elevations of buildings.

11. Construction Requirements. The facing material of the exterior of the front of any building, other than residential or accessory, must be constructed of the equivalent of at least 30% of the entire outside wall surface with a clay masonry material or approved equal. If the 30% requirement is not met by constructing the front facing with masonry or

an equivalent, then the remainder must be placed on the remaining three walls. The clay masonry or equivalent shall be stone, finished face precast concrete, ceramic tile or others approved by the Commission. The outside wall surface shall be measured from the cave or coping line to the grade line. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

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175.12 R-4 PERMANENT MOBILE HOME DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the R-4 Permanent Mobile Home District.

1. Uses Permitted.

A. Mobile homes, provided they meet the following requirements:

(1) Mobile home is attached to a permanent foundation.

(2) Vehicular frame is destroyed or modified, rendering it impossible to reconvert to mobile use.

(3) Mobile home is taxed as real property.

B. Churches, other places of worship and accessory buildings.

C. Governmental uses including library, park, playground, community center, offices and garage.

D. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

E. Public, parochial and private schools.

2. Building Height Limit. Not exceeding 20 feet in height; for an accessory structure, not exceeding 16 feet in height.

3. Minimum Lot Area. 5,500 square feet for each dwelling, together with accessory buildings; however, where public sewer and water facilities are not available, not less than 20,000 square feet for any permitted use.

4. Minimum Lot Width. 55 feet. Where public sewer and water facilities are not available, 100 feet.

5. Minimum Front Yard Depth. 15 feet in depth, measured from the property line.

6. Minimum Side Yard Width. 5 feet.

7. Minimum Rear Yard Depth. 10 feet.

8. Minimum Mobile Home Width. 12 feet.

9. Appurtenances. All appurtenances shall meet minimum front yard, rear yard and side yard requirements.

10. Accessory Buildings. In accordance with Section 175.29.

11. Off-Street Parking. In accordance with Section 175.28.

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175.13 R-5 MOBILE HOME PARK DISTRICT STANDARDS. The following regulations shall apply in the R-5 Mobile Home Park District.

1. Purpose; Enforcement. The purpose of this section is to promote the public health, safety, morals, order, convenience, prosperity and general welfare; to preserve the appropriate character of each area within the sound principles of this chapter; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public services. It is the duty of the City Engineer to act as the Zoning Administrator and to enforce this section.

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

A. "Accessory use, mobile home" means a subordinate use which is incidental and customary in connection with the mobile home and is located in the same space of such mobile home.

B. "Accessory use, mobile home park" means a use incidental to the primary use of the mobile home park, such as direct service facility buildings, park management building, maintenance building, community buildings, parking areas, recreational areas or other use of a similar nature.

C. "Approved mobile home park development plan" means the plan approved by the Council.

D. "Appurtenances" means an attached or detached addition to a mobile home, situated on the mobile home space for the use of its occupants, such as a carport, garage, storage shed or items of a similar nature.

E. "Building Codes" means those applicable codes enforced by the Building Department of the City and known as the Boone Building Codes.

F. "Common area" means any area or space designed for joint use of tenants occupying mobile home parks.

G. "Community building" means a building housing toilet and bathing facilities for men and women, a slop-water sink and such other facilities as may be required by this section.

H. "Density" means the number of mobile homes or mobile home stands per gross and/or net acre.

I. "Driveway" means a minor private way used by vehicles and pedestrians on a mobile home space.

J. "Easement" means a vested or acquired right to use land, other than as a tenant, for a specific purpose, such right being held by someone other than the owner who holds title to the land.

K. "Electric park receptacle" means the waterproof attachment receptacle device located adjacent to the water and sewer outlets to receive the flexible cable from the mobile home, or where required, the permanently installed conductors.

L. "Electric service drop" means that part of the electric distribution system from the main electrical distribution system, overhead or underground to the service equipment serving one or more mobile home spaces.

M. "Existing installations" means those installations which were constructed before the effective date of the ordinance codified in this section.

N. "Health authority" means the legally designated health authority or its authorized representative.

O. "Mobile home" means a transportable, single-family dwelling unit, enclosure which can be used for year-round living purposes having no foundation other than wheels, blocks, skids, jacks, horses or skirtings and which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means and containing but not limited to flush toilet, bath, kitchen and heating facilities, and plumbing and electrical connections for attachment to outside systems.

P. "Mobile home park" means a plot of ground containing a minimum of five (5) acres upon which one or more mobile homes are located and designed for occupancy for living purposes whether or not a charge is made for such accommodation.

Q. "Mobile home park development plan" means a custom-made design for a specific site or area consisting of drawings, maps and engineering details to set forth the boundary, topography and overall park design, including streets, parking facilities, mobile home space locations and service facilities.

R. "Mobile home space" means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

S. "Mobile home stand" means that part of an individual mobile home space which has been reserved for the placement of the mobile home and any appurtenances thereto.

T. "Motorized home" means a portable structure designed and constructed as an integral part of a self-propelled vehicle to render it suitable for use as temporary living purposes.

U. "New installations" means those which are proposed for construction after the effective date of the ordinance codified in this chapter.

V. "Patio" means a surfaced outdoor living space designed to supplement the mobile home living area.

W. "Permit to construct, reconstruct or remodel" means a written permit issued by the Zoning Administrator and the City Building Department where applicable, permitting the construction, alteration or extension of a mobile home park under the provisions of this section and regulations issued hereunder.

X. "Pickup coach" means a structure designed primarily to be mounted on a pickup truck chassis and with sufficient equipment to render it suitable for use as temporary living purposes.

Y. "Plat" means a map, plan or chart of a city, town, section or subdivision, indicating the location and boundaries of individual properties.

Z. "Private street" means a private way which affords principal means of access to abutting individual mobile home spaces or accessory buildings.

AA. "Property line" means a recorded boundary of a plat.

BB. "Public street" means a public way which affords principal means of access to abutting properties.

CC. "Public system (water or sewage)" means a system which is owned and operated by a local governmental authority or by an established public utility company which is adequately controlled by governmental authority. Such systems are usually existing systems serving the municipality or a water or sewer district established and directly controlled under the laws of the State.

DD. "Right-of-way" means the area, either public or private, over which the right of passage exists.

EE. "Roadway" means that portion of the mobile home park street system that is surfaced for the actual travel or parking of vehicles, and including curbs.

FF. "Sewer connection" means the connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewage system serving the mobile home park.

GG. "Sewer riser pipe" means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home space.

HH. "Single ownership" means an individual, partnership, corporation or other entity owning the whole park.

II. "Skirting" means the materials and construction around the perimeter of a mobile home floor between the bottom of the mobile home floor and the grade level of the mobile home stand.

JJ. "Temporary permit" means a written permit issued by the Zoning Administrator permitting an existing park at the effective date of the ordinance codified in this section to continue operation for one-year periods during the period ending five years after such effective date.

KK. "Tenant storage" means an enclosed space for an individual mobile home.

LL. "Trailer" means any enclosure which can be used for temporary living purposes, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings and which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. "Trailer" includes camp car, house car, motorized home and pickup coach.

MM. "Transient use" means the occupancy of a mobile home space by a mobile home for a period of fourteen days or less.

NN. "Water connection" means the connection consisting of all pipes and fittings from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

OO. "Water riser pipe" means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home space.

PP. "Yard" means the area on the same space with a mobile home between the space line and the front, rear or side of the mobile home and/or appurtenances. For purposes of this chapter, the "front" of a mobile home shall be considered as that part of the mobile home facing toward the approved street or right-of-way as required by this section.

3. Connections to Sewer and Water. All plans and specifications for the park site, sewer, sewage disposal and water facilities shall meet the requirements of this Code of Ordinances.

4. Refuse Disposal. Refuse disposal shall be the responsibility of the park owner and shall meet all requirements of this Code of Ordinances.

5. Park Street System. Park street systems shall comply with the following:

A. Street Names. Streets that are obviously in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of the new streets shall be shown on the plans and such names shall not duplicate or sound similar to existing street names. The City Engineer shall determine mobile home space numbers.

B. Illumination. All parks shall be furnished with lighting units so spaced and equipped with approved fixtures placed at such mounting heights as will provide the following average maintenance levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of the park street systems: 0.0 foot candle with a minimum of 0.25 foot candle;

(2) Potentially hazardous locations such as major street intersections and steps or step ramps: individually illuminated with a minimum of 0.4 foot candle.

C. Public Dedication. In general, streets or roadways within a mobile home park shall not be dedicated as public City-owned streets, roadways or rights-of-way. The said streets or roadways may be dedicated as such if the streets or roadways conform to the City major street plan and the Commission recommends dedication and the Council approves and accepts the same. The streets or roadways shall be designed, provided and constructed in strict accordance with the subdivision ordinance (Chapter 177 of this Code of Ordinances) except when more restrictive standards may be required by the Council.

D. Construction and Design.

(1) Pavement. All streets shall be constructed with either hot asphaltic concrete or Portland cement concrete. Street surfaces shall be maintained free of cracks, holes and other hazards. All streets shall be constructed to specifications approved by the City Engineer.

(2) Street Grades. Grades of all streets shall be sufficient to furnish adequate surface drainage, but shall not be more than eight percent (8%). Short runs with a maximum grade of ten percent (10%) may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves. All street grades shall meet with the City Engineer's approval.

(3) Intersections. Within 100 feet of an intersection, streets shall be at approximately right angles plus or minus five degrees. A minimum distance of 150 feet is recommended between centerline of offset intersecting streets. Offsets shall be approved by the Commission. Intersections of more than two streets at one point shall be avoided.

E. Off-Street Parking.

(1) Parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such parking areas shall be furnished at the rate of at least two vehicle parking spaces for each mobile home space.

(2) A minimum of one vehicle parking space shall be located as to provide convenient access to the mobile home space. Other required vehicle parking spaces shall be so located as to provide convenient access to the mobile home and shall not exceed a distance of 200 feet from the mobile home it is intended to serve.

(3) All parking surfaces shall be constructed with hot asphaltic concrete or Portland cement concrete, all-weather surfacing.

(4) The minimum size of a parking space shall be 10 feet by 20 feet.

(5) Sufficient off-street parking and storage areas shall be provided to meet anticipated requirements of park

occupants for storing of boats, boat trailers, travel trailers, pickup coaches, truck tractors, trucks of three-fourths ton pickup size and items of a similar nature. The parking and storage area shall be in addition to parking required elsewhere in this section and parking and storage of vehicles and items listed in this paragraph shall not be permitted in parking areas required elsewhere in this section. Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand; such temporary storage of a mobile home shall not exceed 48 hours.

F. Sidewalks.

(1) Walks shall be provided for safe, convenient, all-season pedestrian access, of adequate width for intended use, durable and convenient to maintain. There shall be: (i) an individual walk to each mobile home stand from a paved driveway or parking space connecting to a paved street; and (ii) common walks in locations where pedestrian traffic is concentrated, for example, at the court entrance and to the court office and other important facilities. The location of walks shall be approved by the City Engineer.

(2) Width, alignment and gradient of walks shall be suitable for use by both pedestrians and for the circulation of small, wheeled vehicles such as baby carriages and service carts.

(3) Walks shall be constructed of concrete in accordance with the specifications of the City. Widths shall be generally at least 2 feet for entrance walks or individual spaces and at least 4 feet for common walks. Sidewalks marked as school routes in the City's School Route Plan shall be 5 feet wide. Sudden changes in alignment and gradient shall be avoided. Required walks are not to be used as drainage ways.

6. Fire Protection.

A. The mobile home park area shall be subject to the rules and regulations of the City Fire Department.

B. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

C. Portable fire extinguishers of a type approved by the Fire Department shall be kept in service buildings and at all locations designated by such fire prevention authority and shall be maintained in good operating condition.

D. Fires shall be made only in barbecue pits, fireplaces and stoves and other equipment intended for such similar purposes.

E. Open fires in incinerators shall not be permitted.

F. Fire hydrants shall be installed in the park's water system located at such locations as determined by the Fire Department and the Water Department.

7. Supervision.

A. Mobile home parks shall be operated in compliance with this section and the regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

B. The park management shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section and regulations issued hereunder.

C. The park management shall be responsible for the proper placement of each mobile home on its mobile home stand, which includes securing its stability, installing all utility connections and required skirting. Required skirting shall be installed in accordance with the provisions of this section and within 30 days after initial occupancy.

D. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

E. The park management shall maintain and enforce park rules and regulations standards.

F. The park management shall notify the health authority immediately of any suspected communicable or contagious disease within the park.

8. Responsibilities of Park Occupants. The park occupants shall comply with all applicable requirements of this section and regulations issued hereunder and shall maintain their mobile home spaces, facilities and equipment in good repair and in a clean and sanitary condition. All City ordinances with respect to keeping of animals and pets shall apply.

9. Mobile Home Spaces. All mobile home spaces shall comply with the requirements of this chapter.

10. Required Recreational Areas.

A. In all parks, there shall be one or more recreation areas which shall be easily accessible to all park residents.

B. The size of such recreation area shall be based upon a minimum of 250 square feet for each mobile home space. No outdoor recreation area shall contain less than 2,500 square feet.

C. Required recreational area shall be computed in addition to any other common open space required elsewhere in this section.

D. Recreation areas shall be so located so that they are free of traffic hazards and easily accessible.

11. Soil and Ground Cover Requirements. Exposed ground surface in all parts of every mobile home park shall be paved with hot asphaltic concrete or Portland cement concrete or protected with a vegetative growth that is capable of preventing objectionable dust.

12. Skirting Requirements.

A. Skirting of a permanent type, fire retardant material and construction shall be installed to enclose the open space between the bottom of the mobile home floor and the grade level of the mobile home stand and shall be so constructed to provide substantial resistance to heavy winds, thereby alleviating, to the maximum extent possible, lifting action created on the underside of the mobile home by heavy winds.

B. Sufficient screened, ventilating area shall be installed in the skirting to supply the combustion requirement of the heating units and other ventilating requirements of the mobile home. Provision shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the mobile home and for repairs on sewer and water riser connections.

C. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

D. A removable inspection panel shall be provided within the mobile home skirting to allow easy access for service and inspection of utilities and sanitary piping connections. Under no circumstances shall any hazardous items be stored under a mobile

home, and if utilized for storage of any non-hazardous materials, the area will be maintained in such a manner to preclude insect or rodent harborage. Combustible materials shall not be placed around the mobile home as insulating material.

13. Anchors. All mobile homes shall be anchored according to the State Building Code.

14. Occupancy. It is unlawful to use any mobile home, travel trailer, pickup coach, motorized home or vehicle for human occupancy within the corporate limits of the City, except when located in a mobile home park regularly approved according to the provisions of this section. Mobile homes shall not be converted to real estate except as provided elsewhere in this Code of Ordinances.

15. Storage. This section does not prohibit the storage of one mobile home, travel trailer, pickup coach or motorized home for any one family, provided that the stored location of the unit is in compliance with the regulations of this chapter. At no time shall parked or stored mobile homes, travel trailers, pickup coaches or motorized homes be occupied or used for living, sleeping or housekeeping purposes.

[The next page is 1301]

175.14 R-6 PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS. The "R-6" District is intended and designed to provide a means for the development of large tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single lot method provided in other sections of this chapter. It is the intent of this section that the basic principles of good land use planning including an orderly and graded relationship between various types of uses be maintained and that the sound zoning standards as set forth in this chapter and statutes concerning population density, adequate light and air, recreation and open space, and building coverage be preserved.

1. Procedure. The owner or owners of any tract of land comprising an area of not less than 10 acres may submit to the Council a petition requesting a change to the "R-6" zoning district classification. The petition shall be accompanied by a plan for the use and development of the entire tract of land, along with a non-refundable fee of $150.00. The development plan shall be referred to the Commission for study and report. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of architectural design, land use planning and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The development plan as approved by the Commission shall then be reported to the Council, whereupon the Council may approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this chapter.

2. Required Documents of Final Plan.

A. If the proposed development includes common land which will not be dedicated to the City, and the proposed development will not be held in single ownership, proposed bylaws of a homeowner's association fully defining the functions, responsibilities and operating procedures of the association shall be submitted. The proposed bylaws shall include but not be limited to provisions: (a) automatically extending membership in the association to all owners of dwelling units within the development; (b) limiting the uses of the common property to those permitted by the final development; (c) granting to each owner of a dwelling unit within the development the right to the use and enjoyment of the common property; (d) placing the

responsibility for operation and maintenance of the common property in the association; (e) giving every owner of a dwelling unit voting rights in the association; and (f) if the development will combine rental and for-sale dwelling units, stating the relationship between the renters and the homeowner's association and the rights renters shall have to the use of the common land.

B. A performance bond which shall insure to the City that the dedicated public streets, utilities, and other common development facilities shall be completed by the developer within the time specified in the final development plan shall also be submitted.

C. A covenant to run with the land, in favor of the City and all persons having a proprietary interest in any portion of the development premises, that the owner of the land or successors in interest will maintain all interior streets, parking areas, sidewalks, common land, parks and plantings which have not been dedicated to the City in compliance with this Code of Ordinances shall be submitted.

D. Any additional agreements required by the Council at the time of preliminary plat approval shall also be submitted.

E. A final plat shall be submitted with each stage of the final development plan. The plat shall show building lines, lots and/or blocks, common land, streets, easements, and other applicable items required by the subdivision ordinance. Following approval of the final plat by the Commission and Council, the plat shall be recorded with the County Auditor and Recorder.

3. Standard Compliance. The final development plan and required documents shall be reviewed by the Commission, for compliance with the "R-6" standards and substantial compliance with the preliminary plan. The Commission's recommendations and report on the final development plan shall be referred to the Council for final approval. The final development plan and final plat shall be approved by the Council before any building permit is issued.

4. Bulk Regulations. Permitted principal and accessory land uses, lot area, yard and height requirements shall be as set out below, which shall prevail over conflicting requirements of the chapter or the subdivision ordinance.

A. Buildings shall be used only for residential purposes; occupant garages, occupant storage and similar accessory uses; non-commercial recreational facilities; and community activities including churches and schools.

B. The minimum lot and yard requirements of the zoning districts in which the development is located shall not apply, except that minimum yards specified in the district shall be provided around the boundaries of the development. The Council may require open space or screenings be located along all or a portion of the development boundaries. The height requirements of the zoning district in which the development is located shall apply within 125 feet of the development boundary.

C. All public streets, water mains, sanitary sewer and storm sewer facilities shall comply with appropriate ordinance and specifications of the City.

D. "Common land" as used in this section refers to land retained in private ownership for the use of the residents of the development, or to land dedicated to the general public, but not including street or alley right-of-way.

E. Any land gained within the development because of the reduction in lot sizes, below minimum zoning ordinance requirements, shall be placed in common land to be dedicated to the City or retained in private ownership to be managed by a homeowner's association.

F. The requirements of this chapter relating to off-street parking and loading shall apply to all "R-6" districts.

G. The final development plan shall comply with the density requirements.

5. Density.

A. The maximum number of dwelling units permitted in an "R-6" District shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the zoning district or districts in which the area is located then multiplied by 115%. (In the R-2 district, the one-family dwelling requirement shall apply.) Net development area shall be determined by subtracting the area set aside for churches and schools, if any, and deducting the area actually proposed for streets from the gross development area. The area of land set aside for common land, open space, or recreation shall be included in determining the number of dwelling units permitted.

B. The maximum number of multiple dwelling units permitted shall be determined by the zoning district in which the development is located as follows:

Zoning District	Percentage of Total Units Allowable as Multiples
R-1	25%
R-2	50%
R-3	100%

C. If the development area contains two (2) or more different zoning classifications, the number of dwelling units permitted shall be determined in the direct proportion to the area of each zoning classification contained in the entire tract.

6. Construction and Improvements.

A. The Council may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time; provided, however, that in the determination of such period, the Council shall consider the scope and magnitude of the development project and any schedule of construction and improvements submitted by the developer. Failure to complete all construction and improvements within said period of time shall be deemed sufficient cause for the Council to rezone the unimproved property to the classification effective at the time of original submission of the development plan, unless an extension as recommended by the Commission and approved by the Council for due cause shown. Any proposed change in the development plan after approval by the Council shall be resubmitted and considered in the same manner as the original proposal. The term "unimproved property" means all property situated within a stage or stages of the final development plan upon which the installation of improvements has not been commenced.

B. In no event shall the installation of any improvements be commenced in the second or subsequent stages of the final development plan until such time as ninety percent (90%) of all construction and improvements have been completed in any prior stage of such plan.

[The next page is 1309]

175.15 R-7 ESTATE RESIDENTIAL DISTRICT STANDARDS. The R-7 Estate Residential District is intended to permit development which has a low-density, estate character. The following regulations and the supplementary regulations of Section 175.29 shall apply in the R-7 Estate Residential District.

1. Uses Permitted. Only those uses listed specifically, or by reference, or by description are deemed permitted uses; all others are deemed not permitted in this district.

A. Farms, farm uses, customary farm occupations, plant and tree nurseries, truck gardening, greenhouses, and wholesale or retail sales in conjunction with same provided that: (a) all processed goods offered for sale shall be stored in fully enclosed structures; and (b) for wholesale or retail sales the gross floor area of such use shall not be greater than 800 square feet.

B. One-family dwellings.

C. Churches, other places of worship, and accessory buildings.

D. Governmental uses including library, park, playground, community center, offices and garage.

E. Private or semi-public parks, golf courses, country clubs, tennis courts, swimming pools and similar recreational uses, not operated primarily as a commercial use.

F. Public, parochial and private schools.

G. Social or cultural use serving a community need or convenience, not carried on primarily for profit, and including clubs, lodges, fraternities, other service groups in accordance with the provisions of Section 175.29(11).

H. Home occupations.

I. Railroad right-of-ways and trackage, public utility distribution lines and sub-stations serving a local area.

J. Accessory building and uses as provided and regulated herein.

K. Individual or collective private water supply and sewage facilities.

L. Storage of auto trailers, unoccupied mobile homes, camping trailers or boats provided the same are not stored within the front yard of any lot on which a main building is located, or if

on a vacant lot shielded from view of the adjacent lots by a six-foot-high, solid-type fence or other equal screening.

2. Building Height Limit. For a residence building 2½ stories, but not exceeding 35 feet in height; for a non-residence building, not exceeding 60 feet in height; and for an accessory structure not exceeding 16 feet in height.

3. Minimum Lot Area. 20,000 square feet for each dwelling together with its accessory buildings, and 20,000 square feet for all other permitted uses.

4. Minimum Lot Width. 100 feet.

5. Minimum Front Yard Depth. 40 feet unless otherwise specified.

6. Minimum Side Yard (Each Side). 12 feet for a one-family dwelling and 15 feet for any other principal building.

7. Minimum Rear Yard Depth. 40 feet for a dwelling and 65 feet for any other building.

8. Off-Street Parking. In accordance with Section 175.28.

9. All public streets, water mains, sanitary sewer and storm sewer facilities shall comply with appropriate ordinance and specifications of the City.

[The next page is 1315]

175.16 C-1 SPECIAL COMMERCIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the C-1 District. The C-1 District is intended to provide space for the general retail and professional office uses with special architectural and site development requirements.

1. Permitted Uses.

A. Stores or establishments for the conducting of any retail business provided that all goods offered for sale shall be kept or stored within a fully enclosed building, but including drive-in places with such uses. (See exception in subsection 11.)

B. Shops or establishments for the conducting of any personal or business services provided that such services, where conducted on the premises, are rendered within a fully enclosed building. (See exception in subsection 11.)

C. Banks and other financial establishments.

D. Business and professional offices, hotels, motels and motor lodges.

E. Eating places, restaurants, taverns or any other places serving food or beverages, provided same is conducted within a fully enclosed building.

F. Places of amusement or recreation provided all such activity is carried on inside a fully enclosed building, but including places where food and beverages are served to patrons in parked automobiles.

G. Gasoline filling station, automobile sales lot, mobile home sales lot, automobile washing facility.

H. Off-street parking and loading areas.

I. Any accessory building customarily incidental and subordinate to one of the above main uses.

2. Building Height Limit. For any use, 40 feet.

3. Minimum Lot Area. No minimum.

4. Minimum Lot Width. No minimum.

5. Front Yard Depth. For any use, 25 feet.

6. Minimum Side Yard Width (Each Side). No minimum, but if a side yard is provided then must be at least 5 feet, plus 1 foot for each 2

feet in height above 30 feet. (Exception: Where side yard is adjacent to an "R" District it shall be at least 15 feet.)

7. Minimum Rear Yard Depth. No minimum, but if a rear yard is provided then must be at least 5 feet plus 1 foot for each 2 feet in height above 30 feet. (Exception: Where rear yard is adjacent to an "R" District it shall be at least 15 feet.)

8. Off-Street Parking. In accordance with Section 175.28.

9. Construction Requirements.

A. Landscaping of a site may be required including the use and approval of planting materials used on the site. The vegetation initially planted must be nurtured and all dead stock regularly replaced.

B. Around loading areas, material holding, and/or assembly or processing areas, a sight tight durable fence or wall must be provided.

C. Around refuse holding locations a sight tight enclosure that will also prevent scattering of refuse shall be provided.

D. The exterior of the front of a building must be constructed of at least 30% outside facing material of a clay masonry material or approved equal. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

10. Site Plan Required. To assure that the layout and location of proposed buildings and other improvements will be in conformity with the purposes and standards set forth for the C-1 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; and (b) topography or selected elevation points to show existing grades and proposed final grades or elevations of buildings.

11. Outdoor Displays. Outdoor displays will be permitted as long as they are not unsightly or constitute a nuisance. No outdoor displays will be permitted on any public right-of-way, including but not limited to streets, alleys, or sidewalks that in any way block or obstruct a street, alley or sidewalk. The Building Official shall have absolute discretion in determining whether an outdoor display is unsightly, constitutes a nuisance, or whether it blocks or obstructs a public right-of-way.

[The next page is 1323]

175.17 C-2 LIMITED COMMERCIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the C-2 District. The C-2 District is intended to provide space for retail and professional office uses (other than the C-3 General Commercial District) adjacent to Residential Districts.

1. Permitted Uses.

A. Same uses as permitted and regulated for the R-3 District.

B. Stores or establishments for the conducting of any retail business provided that all goods offered for sale shall be kept or stored within a fully enclosed building, but including drive-in places with such uses. (See exception in subsection 11.)

C. Shops or establishments for the conducting of any personal or business services provided that such services, where conducted on the premises, are rendered within a fully enclosed building. (See exception in subsection 11.)

D. Banks and other financial establishments.

E. Business and professional offices.

F. Hotels, motels and motor lodges.

G. Eating places, restaurants, taverns or any other places serving food or beverages, provided same is conducted within a fully enclosed building.

H. Places of amusement or recreation provided all such activity is carried on inside a fully enclosed building, but including places where food and beverages are served to patrons in parked automobiles.

I. Gasoline filling station, automobile sales lot, mobile home sales lot, automobile washing facility.

J. Off-street parking and loading areas.

K. Any accessory building customarily incidental and subordinate to one of the above main uses.

2. Building Height Limit. For residence buildings, same as for the R-3 District, for any other permitted principal use, 40 feet; for any accessory building, 16 feet.

3. Minimum Lot Area. For residence buildings, same as for the R-3 District, for any other permitted use, no minimum.

4. Minimum Lot Width. For residence buildings, same as for the R-3 District, for any other permitted use, no minimum.

5. Minimum Front Yard Depth. For residence buildings, same as for the R-3 District; for any other permitted use, 25 feet.

6. Minimum Side Yard Width (Each Side). For any residence building, same as for the R-3 District, for any other permitted use, no minimum, but if a side yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet. (Exception: Where side yard is adjacent to an "R" District it shall be at least 15 feet.)

7. Minimum Rear Yard Depth. For any residence building, same as for R-3 District; for any other permitted use, no minimum, but if a rear yard is provided then must be at least 5 feet plus 1 foot for each 2 feet in height above 30 feet. (Exception: Where rear yard is adjacent to an "R" District it shall be at least 15 feet.)

8. Off-Street Parking. In accordance with Section 175.28.

9. Site Plan Required. To assure that the layout and location of proposed buildings and other improvements will be in conformity with the purposes and standards set forth for the C-2 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; and (b) topography or selected elevation points to show existing grades and proposed final grades or elevations of buildings.

10. Construction Requirements.

A. Landscaping of a site may be required including the use and approval of planting materials used on the site. The vegetation initially planted must be nurtured and all dead stock regularly replaced.

B. Around loading areas, material holding, and/or assembly or processing areas, a sight tight durable fence or wall must be provided.

C. Around refuse holding locations a sight tight enclosure that will also prevent scattering of refuse shall be provided.

D. The exterior of the front of a building must be constructed of at least 30% outside facing material of a clay masonry material or approved equal. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

11. Outdoor Displays. Outdoor displays will be permitted as long as they are not unsightly or constitute a nuisance. No outdoor displays will be permitted on any public right-of-way, including but not limited to streets, alleys, or sidewalks that in any way block or obstruct a street, alley or sidewalk. The Building Official shall have absolute discretion in determining whether an outdoor display is unsightly, constitutes a nuisance, or whether it blocks or obstructs a public right-of-way.

[The next page is 1331]

175.18 C-3 LIMITED COMMERCIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the C-3 District. The C-3 District is intended to accommodate the variety of retail stores and related activities which occupy the prime area within the central business district. It is intended that this district not be mapped outside the original business core.

1. Permitted Uses.

A. Same uses as permitted and regulated for the R-3 District.

B. Stores or establishments for the conducting of any retail business provided that all goods offered for sale shall be kept or stored within a fully enclosed building, but including drive-in places with such uses. (See exception in subsection 11.)

C. Shops or establishments for the conducting of any personal or business services provided that such services, where conducted on the premises, are rendered within a fully enclosed building. (See exception in subsection 1.)

D. Banks and other financial establishments.

E. Business and professional offices.

F. Hotels, motels and motor lodges.

G. Eating places, restaurants, taverns or any other places serving food or beverages, provided same is conducted within a fully enclosed building.

H. Places of amusement or recreation provided all such activity is carried on inside a fully enclosed building, but including places where food and beverages are served to patrons in parked automobiles.

I. Gasoline filling station, automobile sales lot, mobile home sales lot, automobile washing facility.

J. Cabinet making or carpenter shops; plumbing, heating, ventilating or air conditioning supply shops; electrical shop; printing, binding or publishing shop or firm; tinsmith, sheet metal or ornamental iron shop but not including heavy structural iron or steel fabricating shop; or similar commercial shop not primarily manufacturing in nature.

K. Bottling works, automobile body repairs, cleaning and dyeing plant, processing of dairy or egg products, frozen food

lockers, laundry or other similar commercial service not primarily manufacturing in nature.

L. Wholesale and storage uses conducted entirely within a building but not including outdoor storage or fuel or other combustible material.

M. Lumber yard, builders supply yard, machinery storage yard or similar products storage but not including junk yard, salvage or waste material outdoor storage yard.

N. Transportation terminals, product transfer facilities.

O. Off-street parking and loading areas.

P. Any accessory building customarily incidental and subordinate to one of the above main uses.

2. Building Height Limit. For residence buildings, same as for the R-3 District, for any other permitted principal use, no building shall have a height greater than three (3) times the width of the street right-of-way on which it faces.

3. Minimum Lot Area. For residence buildings, same as for the R-3 District; for any other permitted use, no minimum.

4. Minimum Lot Width. For residence buildings, same as for the R-3 District; for any other permitted use, no minimum.

5. Minimum Front Yard Depth. For residence buildings, same as for the R-3 District; for any other permitted use, no minimum.

6. Minimum Side Yard Width (Each Side). For any residence building, same as for the R-3 District; for any other permitted use, no minimum, but if a side yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet. (Exception: Where side yard is adjacent to an "R" District it shall be at least 15 feet.)

7. Minimum Rear Yard Depth. For any residence building, same as for R-3 District; for any other permitted use, no minimum, but if a rear yard is provided then must be at least 5 feet 1 foot for each 2 feet in height above 30 feet. (Exception: Where rear yard is adjacent to an "R" District it shall be at least 15 feet.)

8. Off-Street Parking and Loading. In accordance with Section 175.28.

9. Site Plan Required. To assure that the layout and location of proposed buildings and other improvements will be in conformity with the purposes and standards set forth for the C-3 District, a site plan shall be submitted showing the proposed use and development of the site for

approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; and (b) topography or selected elevation points to show existing grades and proposed final grades or elevations of buildings.

10. Construction Requirements.

A. Landscaping of a site may be required including the use and approval of planting materials used on the site. The vegetation initially planted must be nurtured and all dead stock regularly replaced.

B. Around loading areas, material holding, and/or assembly or processing areas, a sight tight durable fence or wall must be provided.

C. Around refuse holding locations a sight tight enclosure that will also prevent scattering of refuse shall be provided.

D. The exterior of the front of a building must be constructed of at least 30% outside facing material of a clay masonry material or approved equal. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has

more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

11. Outdoor Displays. Outdoor displays will be permitted as long as they are not unsightly or constitute a nuisance. No outdoor displays will be permitted on any public right-of-way, including but not limited to streets, alleys, or sidewalks that in any way block or obstruct a street, alley or sidewalk. The Building Official shall have absolute discretion in determining whether an outdoor display is unsightly, constitutes a nuisance, or whether it blocks or obstructs a public right-of-way.

[The next page is 1339]

175.19 C-4 PLANNED COMMERCIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the C-4 Commercial District. The "C-4" District is intended to provide for the development of shopping centers. For the purposes of this section, the term "shopping center" means a planned retail and service area under single ownership, management, or control characterized by a concentrated grouping of stores and compatible uses, with various facilities designed to be used in common, such as ingress and egress roads, extensive parking accommodations, etc. Since shopping center developments, whether large or small, have a significant effect upon the Comprehensive Plan for the development of the City, extensive authority over their development is retained by the Council and the Commission. Many matters relating to the shopping center's design, its potential for success or failure and its effect upon surrounding neighborhoods must be considered by the Council and Commission in order to reasonably be assured that the area will not eventually become blighted. It is further intended that in the event of an applicant's failure to construct a shopping center in accordance with a reasonable time schedule, the Council shall enact the necessary legislation to reclassify the area to another classification consistent with the surrounding neighborhood. Such action would also, because of the reduction in commercial zoning in a given area, provide conditions whereby it could be reasonable for the Council to classify other areas in the vicinity for shopping center use.

1. Procedure. The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit to the Council a petition requesting a change to the C-4 zoning district classification. The petition shall be accompanied by a plan for the commercial use and development of the tract for the purpose of meeting the requirements of this section and by evidence of the feasibility of the project and its effects on surrounding property, including each of the following:

A. A site plan defining the areas to be developed for buildings, the areas to be developed for parking, the location of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and height of walls, existing and proposed grades, the location and type of landscaping and the location, size and number of signs, type or style of architecture, building materials, color or other significant features.

B. An analysis of market conditions in the area to be served including the types and amount of service needed and general economic justification.

C. A traffic analysis of the vicinity indicating the effect of proposed shopping center on the adjacent streets.

D. A statement of financial responsibility to assure construction of the shopping center, including landscaping, in accordance with the plan and the requirements of this section.

The development plan shall be referred to the Commission for study and report. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of civic design, land use planning and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals, and general welfare. The development plan as approved by the Commission shall then be reported to the Council; whereupon, the Council may approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this chapter.

2. Standards. Uses permitted in the "C-4" district shall include any use permitted in the "C-1," "C-2," or "C-3" districts and as limited by these districts; provided, however, the Council may consider any additional restrictions proposed by the owner. The bulk regulations of the "C-2" district shall be considered minimum for the "C-4" district; however, it is expected that these minimums will be exceeded in all but exceptional situations. Buildings may be erected to heights greater than those allowed in the "C-3" district in accordance with the intent and purpose of this section.

3. Completion. The Council may make the approval of the shopping center plan contingent upon the completion of construction and improvements within a reasonable period of time; provided, however, in determination of such period, the Council shall consider the scope and magnitude of the project and any schedule or timetable submitted by the developer. Failure to complete the construction and improvements within said period of time shall be deemed sufficient cause for the Council, in accordance with the provisions of Section 175.31, to rezone the subject property to the classification effective at the time of original submission of the shopping center plan, unless an extension is recommended by the Commission and approved by the Council for due cause shown. Any proposed change in the shopping center plan, after approval by the Council, shall be resubmitted and considered in the same manner as the original proposal.

4. Off-Street Parking. In accordance with Section 175.28.

5. Landscaping. A minimum of 15 percent of the area shall be returned as landscaped open space to include such items as walks, trees, shrubs, fountains or other ornamental features.

6. Outdoor Displays. Outdoor displays will be permitted as long as they are not unsightly or constitute a nuisance. No outdoor displays will be permitted on any public right-of-way, including but not limited to streets, alleys, or sidewalks that in any way block or obstruct a street, alley or sidewalk. The Building Official shall have absolute discretion in determining whether an outdoor display is unsightly, constitutes a nuisance, or whether it blocks or obstructs a public right-of-way.

[The next page is 1347]

175.20 M-1 SPECIAL PLANNED COMMERCIAL, OFFICE OR INDUSTRIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the M-1 District.

1. Purpose. The purpose of this district is to provide for the development of selected commercial uses, office and light industrial uses that will be so located and planned as to constitute a well-designed, convenient, and appropriate part of the physical development of the City, encourage sound expansion of the economic base of the City, and otherwise further the general zoning purposes set forth in Section 175.03 of this chapter. This section includes special architectural and site development requirements.

2. Permitted Uses.

A. Eating places, restaurant, tavern or any other place serving food or beverages provided same is conducted within a fully enclosed building.

B. Places of amusement or recreation provided all such activity is carried on inside a fully enclosed building, but including places where food and beverages are served to patrons in parked automobiles.

C. Gasoline filling station, automobile sales lot, mobile home sales lot, automobile washing facility.

D. Cabinet making or carpenter shops; plumbing, heating, ventilating or air conditioning supply shops; electrical shop; printing, binding or publishing shop or firm; tinsmith, sheet metal or ornamental iron shop but not including heavy structural iron or steel fabricating shop; or similar commercial shop not primarily manufacturing in nature.

E. Bottling works, automobile body repairs, cleaning and dyeing plant, processing of dairy or egg products, frozen food lockers, laundry, or other similar commercial service not primarily manufacturing in nature.

F. Wholesale and storage uses conducted entirely within a building but not including outdoor storage of fuel or other combustible material.

G. Manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, candy, cosmetics, pharmaceuticals, toiletries, food products except fish,

sauerkraut, vinegar, yeast, refining of fats and oils or other similar high odor level activity.

H. Manufacture, compounding, assembling, or treatment of articles or merchandise from certain natural or previously prepared base materials such as, but not limited to, cloth, cellophane, cork, felt, fiber, glass, leather, paper, plastics, metals or stones, shell, wax, yarns and wood, but excluding heavy manufacturing, assembling or treatment using these materials such as a large metal stamping mill, large structural steel fabricator, saw or planing mill, or other similar high noise level activity.

I. Manufacture of pottery or other ceramic products using only previously prepared clay, and kilns fired only by electric or gas heat sources.

J. Manufacture, processing, or assembling of hardware and cutlery, novelties and gadgets, electrical appliances and products, electronic devices and products, professional and musical instruments, business machines.

K. Tool, die, gauge and other small product oriented machine shops.

L. Research laboratory; experimental, product development and testing, engineering development, or similar research oriented facility.

M. Administrative offices, motel.

N. Off-street parking and loading areas.

O. Any accessory building customarily incidental and subordinate to one of the above main uses.

P. No dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

3. Building Height Limit. For any permitted use, a main building shall not exceed 45 feet in height, except that for each one foot that the nearest portion of the building is set back beyond the required front, side and rear yards, one foot may be added to the height limit of such buildings or portion thereof, provided that no building shall exceed 90 feet in height; for any accessory building, 16 feet.

4. Minimum Lot Area. For any permitted use, no minimum.

5. Minimum Lot Width. For any permitted use, no minimum.

6. Minimum Front Yard Depth. For any permitted use, 25 feet.

7. Minimum Side Yard Width (Each Side). For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

8. Minimum Rear Yard Depth. For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

9. Off-Street Parking. In accordance with Section 175.28, except that the Council may increase or decrease the parking requirements by not more than 25 percent where the amount of vehicular traffic and/or number of customers or employees to a particular site or use warrants an increase or decrease in the amount of off-street parking spaces from the normal requirement as set forth.

10. Other Standards. Uses to be developed along the lot or project boundary lines shall not be in conflict with existing uses on adjacent or opposite properties. To this end the City may require that uses of least intensity, increased yard space, or buffer screening or fencing be located nearest the borders of the lot or project with said existing uses. Suitable screening or landscaping shall be provided along all adjacent residence boundaries to protect said properties from increased noise, glare of lighting, or other similar nuisance from the adjacent business or industrial use.

11. Site Plan Required. To assure that the layout and location of proposed commercial, office or light industrial uses in any M-1 Planned District will be in conformity with the purposes and standards set forth for M-1 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use, and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams etc. within 200 feet of boundaries of site; (b) topography or selected elevation points to show existing grades, and proposed final grades or elevations of buildings.

12. Construction Requirements.

A. Landscaping of a site may be required including the use and approval of planting materials used on the site. The vegetation initially planted must be nurtured and all dead stock regularly replaced.

B. Around loading areas, material holding, and/or assembly or processing areas, a sight tight durable fence or wall must be provided.

C. Around refuse holding locations a sight tight enclosure that will also prevent scattering of refuse, shall be provided.

D. The exterior of the front of a building must be constructed of at least 30% outside facing material of a clay masonry material or approved equal. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be only two factors in making this determination. If the building is bordered on more than one side by public right-of-way, and has more than one entrance, the Commission shall make the final determination as to which side will have the required masonry material.

[The next page is 1355]

175.21 M-2 PLANNED COMMERCIAL, OFFICE OR INDUSTRIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the M-2 District.

1. Purpose. The purpose of this district is to provide for the development of selected commercial uses, office and light industrial uses that will be so located and planned as to constitute a well-designed, convenient, and appropriate part of the physical development of the City, encourage sound expansion of the economic base of the City, and otherwise further the general zoning purposes set forth in Section 175.03 of this chapter. This section includes site development requirements.

2. Permitted Uses.

A. Eating places, restaurant, tavern or any other place serving food or beverages provided same is conducted within a fully enclosed building.

B. Places of amusement or recreation provided all such activity is carried on inside a fully enclosed building, but including places where food and beverages are served to patrons in parked automobiles.

C. Gasoline filling station, automobile sales lot, mobile home sales lot, automobile washing facility.

D. Cabinet making or carpenter shops; plumbing, heating, ventilating or air conditioning supply shops; electrical shop; printing, binding or publishing shop or firm; tinsmith, sheet metal or ornamental iron shop but not including heavy structural iron or steel fabricating shop; or similar commercial shop not primarily manufacturing in nature.

E. Bottling works, automobile body repairs, cleaning and dyeing plant, processing of dairy or egg products, frozen food lockers, laundry, or other similar commercial service not primarily manufacturing in nature.

F. Wholesale and storage uses conducted entirely within a building but not including outdoor storage of fuel or other combustible material.

G. Manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, candy, cosmetics, pharmaceuticals, toiletries, food products except fish, sauerkraut, vinegar, yeast, refining of fats and oils or other similar high odor level activity.

H. Manufacture, compounding, assembling, or treatment of articles or merchandise from certain natural or previously prepared base materials such as, but not limited to, cloth, cellophane, cork, felt, fiber, glass, leather, paper, plastics, metals or stones, shell, wax, yarns and wood, but excluding heavy manufacturing, assembling or treatment using these materials such as a large metal stamping mill, large structural steel fabricator, saw or planing mill, or other similar high noise level activity.

I. Manufacture of pottery or other ceramic products using only previously prepared clay, and kilns fired only by electric or gas heat sources.

J. Manufacture, processing, or assembling of hardware and cutlery, novelties and gadgets, electrical appliances and products, electronic devices and products, professional and musical instruments, business machines.

K. Tool, die, gauge and other small product oriented machine shops.

L. Research laboratory; experimental, product development and testing, engineering development, or similar research oriented facility.

M. Administrative offices, motel.

N. Off-street parking and loading areas.

O. Any accessory building customarily incidental and subordinate to one of the above main uses.

P. No dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

3. Building Height Limit. For any permitted use, a main building shall not exceed 45 feet in height, except that for each one foot that the nearest portion of the building is set back beyond the required front, side and rear yards, one foot may be added to the height limit of such buildings or portion thereof, provided that no building shall exceed 90 feet in height; for any accessory building, 16 feet.

4. Minimum Lot Area. For any permitted use, no minimum.

5. Minimum Lot Width. For any permitted use, no minimum.

6. Minimum Front Yard Depth. For any permitted use, 25 feet.

7. Minimum Side Yard Width (Each Side). For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

8. Minimum Rear Yard Depth. For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

9. Off-Street Parking. In accordance with Section 175.28, except that the Council may increase or decrease the parking requirements by not more than 25 percent where the amount of vehicular traffic and/or number of customers or employees to a particular site or use warrants an increase or decrease in the amount of off-street parking spaces from the normal requirement as set forth.

10. Other Standards. Uses to be developed along the lot or project boundary lines shall not be in conflict with existing uses on adjacent or opposite properties. To this end the City may require that uses of least intensity, increased yard space, or buffer screening or fencing be located nearest the borders of the lot or project with said existing uses. Suitable screening or landscaping shall be provided along all adjacent residence boundaries to protect said properties from increased noise, glare of lighting, or other similar nuisance from the adjacent business or industrial use.

11. Site Plan Required. To assure that the layout and location of proposed commercial, office or light industrial uses in any M-2 Planned District will be in conformity with the purposes and standards set forth for M-2 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use, and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the

site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; (b) topography or selected elevation points to show existing grades, and proposed final grades or elevations of buildings.

[The next page is 1363]

175.22 M-3 LIGHT INDUSTRIAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the M-3 District.

1. Permitted Uses.

A. Cabinet making or carpenter shops; plumbing, heating, ventilating or air conditioning supply shops; electrical shop; printing, binding or publishing shop or firm; tinsmith, sheet metal or ornamental iron shop but not including heavy structural iron or steel fabricating shop; or similar commercial shop not primarily manufacturing in nature.

B. Bottling works, automobile body repairs, cleaning and dyeing plant, processing of dairy or egg products, frozen food lockers, laundry, or other similar commercial service not primarily manufacturing in nature.

C. Wholesale and storage uses conducted entirely within a building.

D. Lumber yard, builders supply yard, machinery storage yard, or similar products storage but not including junk yard, salvage, or waste material outdoor storage yard.

E. Transportation terminals, product transfer facilities.

F. Manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, candy, cosmetics, pharmaceuticals, toiletries, food products except fish, sauerkraut, vinegar, yeast, refining of fats and oils or other similar high odor level activity.

G. Manufacture, compounding, assembling, or treatment of articles or merchandise from certain natural or previously prepared base materials such as, but not limited to, cloth, cellophane, cork, felt, fiber, glass, leather, paper, plastics, metals or stones, shell, wax, yarns and wood, but excluding heavy manufacturing, assembling or treatment using these materials such as a large metal stamping mill, large structural steel fabricator, saw or planing mill, or other similar high noise level activity.

H. Manufacture of pottery or other ceramic products using only previously prepared clay, and kilns fired only by electric or gas heat sources.

I. Manufacture, processing, or assembling of hardware and cutlery, novelties and gadgets, electrical appliances and products, electronic devices and products, professional and musical instruments, business machines.

J. Tool, die, gauge and other small product oriented machine shops.

K. Research laboratory; experimental, product development and testing, engineering development, or similar research oriented facility.

L. Foundry casting, lightweight non-ferrous metals or electric or gas fired foundry not causing noxious fumes or odors.

M. Livestock terminal or sales barn.

N. Wind Energy Conservation Systems (WCES), as a conditional use.

O. Off-street parking and loading areas.

P. Any accessory building customarily incidental and subordinate to one of the above main uses.

Q. No dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

2. Building Height Limit. For any permitted use, no height limit.

3. Minimum Lot Area. For any permitted use, no minimum.

4. Minimum Lot Width. For any permitted use, no minimum.

5. Minimum Front Yard Depth. For any permitted use, 25 feet.

6. Minimum Side Yard Width (Each Side). For any permitted use, no minimum, but if a side yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet.

7. Minimum Rear Yard Depth. For any permitted use, no minimum, but if a rear yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet.

8. Off-Street Parking. In accordance with Section 175.28, except that the Council may increase or decrease the parking requirements by not more than 25 percent where the amount of vehicular traffic and/or number of customers or employees to a particular site or use warrants an increase or decrease in the amount of off-street parking spaces from the normal requirement as set forth.

9. Other Standards. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, vibrations, refuse matter or water-carried waste.

10. Site Plan Required. To assure that the layout and location of proposed commercial, office or light industrial uses in any M-3 Planned District will be in conformity with the purposes and standards set forth for M-3 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use, and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams etc. within 200 feet of boundaries of site; (b) topography or selected elevation points to show existing grades, and proposed final grades or elevations of buildings.

[The next page is 1371]

175.23 M-4 GENERAL INDUSTRIAL DISTRICT STANDARDS. The following regulations and the Supplementary Regulations of Section 175.29 shall apply in the M-4 District.

1. Permitted Uses.

A. Cabinet making or carpenter shops; plumbing, heating, ventilating or air conditioning supply shops; electrical shop; printing, binding or publishing shop or firm; tinsmith, sheet metal or ornamental iron shop but not including heavy structural iron or steel fabricating shop; or similar commercial shop not primarily manufacturing in nature.

B. Bottling works, automobile body repairs, cleaning and dyeing plant, processing of dairy or egg products, frozen food lockers, laundry, or other similar commercial service not primarily manufacturing in nature.

C. Wholesale and storage uses conducted entirely within a building.

D. Lumber yard, builders supply yard, machinery storage yard, or similar products storage but not including junk yard, salvage, or waste material outdoor storage yard.

E. Transportation terminals, product transfer facilities.

F. Manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, candy, cosmetics, pharmaceuticals, toiletries, food products except fish, sauerkraut, vinegar, yeast, refining of fats and oils or other similar high odor level activity.

G. Manufacture, compounding, assembling, or treatment of articles or merchandise from certain natural or previously prepared base materials such as, but not limited to, cloth, cellophane, cork, felt, fiber, glass, leather, paper, plastics, metals or stones, shell, wax, yarns, and wood.

H. Manufacture of pottery or other ceramic products using only previously prepared clay, and kilns fired only by electric or gas heat sources.

I. Manufacture, processing, or assembling of hardware and cutlery, novelties and gadgets, electrical appliances and products, electronic devices and products, professional and musical instruments, business machines.

J. Tool, die, gauge and other small product oriented machine shops.

K. Research laboratory; experimental, product development and testing, engineering development, or similar research oriented facility.

L. Foundry casting, lightweight non-ferrous metals or electric or gas fired foundry not causing noxious fumes or odors.

M. Livestock terminal or sales barn.

N. Wind Energy Conservation Systems (WCES), as a conditional use.

O. Off-Street parking and loading areas.

P. Any accessory building customarily incidental and subordinate to one of the above main uses.

Q. No dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

R. Any other use except those listed in paragraph R of this subsection and not otherwise prohibited by law provided that:

(1) The best practical means known for the disposal of refuse or solid wastes from such use or abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed.

(2) Any building or structure in connection with such use, including loading areas and storage yards, shall be located at least 100 feet from any Residence District boundary.

S. Any of the following uses, provided a public hearing shall be held thereon and approval of the proposed development of said use obtained from the Council.

Acid manufacture.
Automobile or machinery wrecking and used parts yard.
Cement, lime or pulverized clay manufacture.
Distillation of petroleum, grain, refuse or similar material.
Fat rendering, dead animal reduction, glue manufacture.
Fertilizer manufacture.
Junk yard, storage or salvage.
Slaughter house, stock yard.

Tannery.
Yard for waste materials.

In its determination as to the appropriateness of any such use at the particular location requested, the Council shall consider the following conditions: (a) that the proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property; (b) that such use shall not impair an adequate supply of light and air to surrounding property; (c) that such use shall not unduly increase congestion in the streets, or public danger of fire and safety; (d) that such use shall not diminish or impair established property values in adjoining or surrounding property; and (e) that such use shall be in accord with the intent and purposes of this chapter.

2. Building Height Limit. For any permitted use, no height limit.

3. Minimum Lot Area. For any permitted use, no minimum.

4. Minimum Lot Width. For any permitted use, no minimum.

5. Minimum Front Yard Depth. For any permitted use, 25 feet.

6. Minimum Side Yard Width (Each Side). For any permitted use, no minimum, but if a side yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet.

7. Minimum Rear Yard Depth. For any permitted use, no minimum, but if a rear yard is provided, then must be at least 5 feet, plus 1 foot for each 2 feet in height above 30 feet.

8. Off-Street Parking. In accordance with Section 175.28, except that the Council may increase or decrease the parking requirements by not more than 25 percent where the amount of vehicular traffic and/or number of customers or employees to a particular site or use warrants an increase or decrease in the amount of off-street parking spaces from the normal requirement as set forth.

9. Site Plan Required. To assure that the layout and location of proposed commercial, office or light industrial uses in any M-4 Planned District will be in conformity with the purposes and standards set forth for M-4 District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation by the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use, and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; (b) topography or selected elevation points to show existing grades, and proposed final grades or elevations of buildings.

[The next page is 1379]

175.24 MU MIXED USE OVERLAY DISTRICT STANDARDS.

1. Purpose. A mixed use district is intended to provide primarily industrial uses of land compatible with the airport, mixed with commercial and support retail and services. This section includes site development requirements.

2. Permitted and Conditional Uses. The base zone for the MU District is Industrial (Districts M-1, M-2, M-3, M-4). The MU District allows the flexibility of mixing compatible land uses on a site or within the same building, as approved by the Commission. Except as provided in this section, and subject to restrictions contained in this chapter, the permitted uses for the MU District include:

A. Industrial Uses. Districts M-1, M-2, M-3, M-4.

B. Commercial Uses. Commercial use within the MU District will be the same commercial uses regulated and permitted as in District C-1, C-2, or C-3. Commercial uses in the MU-1 District should primarily service the MU District.

3. Prohibited Uses.

A. Residential Uses: Any type of residential use in MU Mixed Use Overlay is restricted.

B. Commercial Uses. Commercial uses listed within C-1, C-2, and C-3 that are restricted from the MU District include specialty commercial uses and destination retail/commercial uses.

4. Building Height Limit. For any permitted use, 40 feet.

5. Minimum Lot Area. For any permitted use, no minimum.

6. Minimum Lot Width. For any permitted use, no minimum.

7. Minimum Front Yard Depth. For any permitted use, 25 feet.

8. Minimum Side Yard Depth (Each Side). For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

9. Minimum Rear Yard Depth. For any permitted use, 15 feet, plus 1 foot for each 2 feet in height above 30 feet.

10. Off-Street Parking. In accordance with Section 175.28, except that the Council may increase or decrease the parking requirements by not more than 25 percent where the amount of vehicular traffic and/or number of customers or employees to a particular site or use warrants an increase or decrease in the amount of off-street parking spaces from the normal requirement as set forth.

11. Other Standards. Uses to be developed along the lot or project boundary lines shall not be in conflict with existing uses on adjacent or opposite properties. To this end the City may require the uses of least intensity, increased yard space, or buffer screening or fencing be located nearest the borders of the lot or project with said existing uses. Suitable screening or landscaping shall be provided along all adjacent residence boundaries to protect said properties from increased noise, glare of lighting, or other similar nuisance from the adjacent business or industrial use.

12. Site Plan Required. To assure that the layout and location of proposed industrial, commercial, or support retail/services in any MU District will be in conformity with the purposes and standards set forth for the MU District, a site plan shall be submitted showing the proposed use and development of the site for approval by the Council after review and recommendation from the Commission. The site plan shall have scale accuracy and shall show the following:

A. Location, use, and height of buildings.

B. Location and improvement of parking and loading areas.

C. Location, improvement, and grade of all access driveways.

D. Location of all existing and proposed underground utility lines and appurtenant structures.

E. Layout, dimensions and markings for parking spaces.

F. Location and improvement of sidewalks, location and markings of all pedestrian ways within parking area.

G. Location and size of all outdoor signs.

H. To properly orient the site plan to adjacent properties and uses and to the physical features of the site, the accompanying information shall be submitted. The applicant may choose to show this information on the site plan or on a separate map: (a) area map showing all properties, streets, easements, streams, etc. within 200 feet of boundaries of site; (b) topography or selected elevation points to show existing grades, and proposed final grades or elevations or buildings.

13. Construction Requirements.

A. Landscaping, open space requirements, and buffers shall be required as stated within Chapter 177, Subdivision Regulations.

B. For all commercial uses within the MU District, the exterior of the front of the building must be constructed of at least 30% outside facing material of a clay masonry material or approved equal. In the event a dispute arises as to which wall constitutes the front of the building, the decision shall be made solely by the Commission by considering what the general public would regard as the front of the building. Where the main entrance to the building is located and the address side shall be the only two factors in making this determination.

[The next page is 1387]

176.25 U-1 CONSERVANCY DISTRICT STANDARDS. The "U-1" District is intended to encompass certain areas of the City which are subject to flood hazard. This district is created in order to protect the public health and welfare, to lessen the burdens imposed upon the community by rescue and relief efforts occasioned by the occupancy of areas subject to flooding, and to minimize the danger to life and property which results from development undertaken without full realization of such danger. It is further the intention of this chapter that no reclassification of any lands zoned "U-1" be undertaken, unless and until suitable measures have been taken to insure that the flood hazard no longer exists, and that these measures have the approval of the City, State or Federal agencies, where required by existing legislation.

1. Uses Permitted.

A. Agriculture, truck gardening and nurseries, and the usual accessory buildings, provided that no permanent dwelling units shall be erected thereon unless the tract contains ten (10) or more acres.

B. Forests and forestry.

C. Publicly owned parks, playgrounds, golf courses, and recreational uses.

D. Any use erected or maintained by a public agency.

E. The uses hereinafter listed shall be permitted subject to approval by the Board of Adjustment after public hearing. In its determination upon the particular uses at the locations requested, the Board of Adjustment shall consider all of the following provisions.

(1) That the proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;

(2) That such use shall not impair an adequate supply of light and air to surrounding property;

(3) That such use shall not unduly increase congestion in the streets, or public danger of fire, safety and flood;

(4) That such use shall not diminish or impair established property values in adjoining or surrounding property; and

(5) That such use shall be in accord with the intent, purpose and spirit of this chapter and the Comprehensive Plan of the City.

F. The uses subject to the provisions of paragraph E above are as follows:

(1) Amusement enterprises, such as race track, carnival, circus rides and shows, etc.

(2) Mining and extraction of minerals of raw materials.

(3) Airports and landing fields.

(4) Private playgrounds, golf courses and recreational uses.

(5) Public utility structures and equipment necessary for the operation thereof.

(6) Transmitting stations.

(7) Dumping of non-combustible materials for erosion control purposes.

(8) Off-premises advertising signs.

G. Accessory buildings and uses customarily incident to any of the above uses.

2. Building Height Limit, no limitation.

3. Minimum Lot Area, no limitation.

4. Minimum Lot Width, no limitation.

5. Minimum Front Yard Depth, 50 feet.

6. Minimum Side Yard Width (Each Side), 50 feet.

7. Minimum Rear Yard Depth, 50 feet.

[The next page is 1393]

175.26 HM HOSPITAL-MEDICAL DISTRICT STANDARDS. The following regulations and the "Supplementary Regulations" of Section 175.29 shall apply in the HM District. The HM District is intended to provide uses of land which accommodate commercial and professional uses directly associated with medical and dental treatment of human ailments.

1. Permitted Uses.

   A. Hospital for treatment of humans.

   B. Medical clinic.

   C. Sales and service of goods and products and health related services directly related to hospital/medical facilities.

   D. Doctors and/or dentists office.

   E. Laboratories – medical and dental.

   F. Nursing home and convalescent home.

   G. Retirement home and home for the elderly.

   H. One-family dwellings.

   I. Two-family dwellings.

   J. Multi-family dwellings.

   K. Family home.

   L. Accessory buildings and uses as provided and regulated herein.

   M. Private parking facilities.

2. Building Height Limit. Residential uses, same as R-3 District; all other permitted uses, 5 stories or 60 feet.

3. Minimum Lot Area. For residence buildings, same as R-3 District; for any other permitted use, no minimum.

4. Minimum Lot Width. For residence buildings, same as R-3 District; for any other permitted use, no minimum.

5. Minimum Front Yard Depth. For residence buildings, same as R-3 District; for any other permitted uses, 25 feet.

6. Minimum Side Yard Width. For residence buildings, same as R-3 District; for any other permitted uses, 15 feet.

7. Minimum Rear Yard Depth. For residence buildings, same as R-3 District; for any other permitted uses, 15 feet.

8. Off-Street Parking. In accordance with Section 175.28.

9. Construction Requirements. Same as C-1 District, excluding residential uses.

10. Site Plan Required. Same as C-1 District.

[The next page is 1399]

175.27 OPEN SPACE, LANDSCAPING, BUFFERS, AND PARKING REQUIREMENTS. The requirements set forth in this section for open space, landscaping, buffers, and parking requirements shall apply to any development or redevelopment approved on or after the date of September 30, 2008.

1. Open Space Required. On each lot, except for one- and two-family dwellings, there shall be provided open space in accordance with the following schedule:

Zoning District	Percent of Open Space
A-1*	30
R-1**	30
R-2**	30
R-3**	25
R-4**	30
R-5**	30
R-6**	30
R-7**	30
C-Districts	25
M-Districts	20

* Non-agricultural uses
** Uses other than single-family dwellings and duplexes

A. Said open space shall be unencumbered with any structure, or off-street parking or roadways and drives, and shall be landscaped and maintained with grass, trees, and shrubbery. When the entire lot is not developed, the open space requirement shall be based in proportion to the area of the improved portion of each lot.

B. Each principal structure of an apartment or office complex on same site shall be separated from any other principal structure in the complex by an open space of not less than 16 feet.

2. Landscaping Required. Any development shall provide the following minimum number and size of landscaping plantings based on the minimum required open space for the development. The following is the minimum requirement of trees and shrubs, by number and size, and type of ground cover. Street trees planted in public street right-of-way shall not be counted toward fulfillment of the minimum site requirements set forth below. Plant species to be used for landscaping shall be acceptable to the City that are not considered a nuisance or undesirable species, such as trees with thorns, cottonwood or cotton-bearing poplars, elm trees prone to Dutch Elm Disease, box elder, and

silver maple. Existing trees and shrubs to be retained on site may be counted toward fulfillment of the landscaping requirements.

A. Minimum requirements at the time of planting, for all developments other than single-family (R-1) or one- and two-family residential (R-2), 2 trees minimum or 1 tree of the following size per 1,500 square feet of open space, whichever is greater:

40 percent..... 1½″ - 2″ caliper diameter
Balance ..... 1″ or 1½″ caliper diameter

(Evergreen trees shall not be less than 6 feet in height).

B. Minimum requirements at the time of planting – 6 shrubs, or 1 shrub per 1,000 square feet of open space, whichever is greater.

C. To reduce erosion, all disturbed open space areas shall have ground cover of grass or native vegetation that is installed as sod, or seeded, fertilized, and mulched.

D. Minimum requirements at time of planting for single-family residential (R-1) and one- and two-family residential (R-2) developments include:

2 trees minimum ..... 1″ caliper diameter or greater

3. Buffers Required. The following conditions shall require a buffer which shall be a landscaped area, wall, or other structure intended to separate and obstruct the view between two adjacent zoning districts, land uses, or properties:

A. Any commercial (C) or industrial (M) districts which abut an R-1, R-2, R-4, R-6, or R-7 use shall require a buffer as described in this section.

B. All industrial (M) districts which abut an R-3 or HM use. Industrial districts will be required to provide a buffer to U-1 district uses unless waived by City Council.

C. All industrial (M) Districts which abut any commercial (C) use, provided the use is not located within the MU-1 Mixed Use overlay. Industrial uses within the MU-1 District shall not be required to provide a buffer from Commercial uses.

D. Any loading area, material holding, and/or assembly or processing areas in any district shall be screened from public street view by a sight tight durable wall or fence.

E. A sight tight enclosure that will also prevent the scattering of refuse shall be provided around all refuse holding areas.

4. Buffers. Buffers required under the provisions of this section or elsewhere in the zoning ordinance shall be accompanied by any one or approved combination of the following methods:

A. Buffer Wall: A buffer wall shall not be less than 6 feet in height; constructed of a permanent low maintenance material such as concrete block, cinder block, brick, concrete, precast concrete or tile block; the permanent low maintenance wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; weather resistant wood may be used as a substitute material if designed with adequate structural integrity and permanency and approved by the Planning and Zoning Commission and City Council.

B. Landscape Buffer: A landscape buffer shall not be less than 25 feet in width, designed and landscaped with earth berm and predominant plantings of evergreen type trees, shrubs and plants as to assure year-round effectiveness; height of berm and density and height of plantings shall be adequate to serve as a solid and impenetrable screen. A chain link or vinyl coated chain link fence may exist for security purposes, but is not considered a part of the landscape screening to satisfy the intent of this requirement.

5. Burden of Provision of Buffer. The burden of provision and selection of the buffer shall be as follows:

A. Where two different zoning districts requiring a buffer between them are in an existing improved condition, the above requirement is not retroactive and a buffer is not required. If a buffer is desired, it shall be provided by mutual agreement between adjacent property owners. However, in the event of any or all of the improved property is abandoned, destroyed, or demolished, for the purpose of renewal or redevelopment, that portion of such property being renewed or redeveloped shall be considered vacant and subject to the requirements herein.

B. Where one of two different zoning districts requiring a buffer between them is developed without any buffering provisions, the developer of the vacant land shall assume the burden, unless otherwise specified herein.

C. Where both zoning districts, requiring a buffer between them, are vacant or undeveloped, the burden shall be assumed by

the developer of the land that is improved or developed, except for agricultural uses and unless otherwise specified herein.

6. Waiver of Buffer Requirements. Where the line between two districts, requiring a buffer, follows a street, right-of-way, railroad, stream, or other similar barrier, the requirement for a buffer may be waived by the City Council, provided such waiver does not permit the exposure of undesirable characteristics of land use to public view.

7. Landscaping, Screening, and Open Space Requirements. It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics that are inherent to their use. Therefore, wherever practical and except for single- and two-family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view and contain shade trees within parking islands where multiple aisles of parking exist.

8. Off-Street Parking Access to Public Streets and Internal Traffic Circulation. Off-street parking or loading facilities shall be designed so as to permit entrance and exit by forward movement of the vehicle for all uses, except single-family detached or row dwellings which shall permit backward movement from a driveway. The backing or backward movement of vehicles from a driveway, off-street parking or loading area onto an arterial street or highway shall be prohibited for all uses. The number of ingress/egress access points to public streets from off-street parking areas approved by the City and located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety, and, as possible, not impair movement of vehicular traffic on public streets. Ingress/egress driveway approaches to public streets shall be located in alignment with driveway approaches gaining access to the same public street from property on the opposite side of the street. The design of off-street parking and loading facilities shall provide traffic circulation for the internal forward movement of traffic within the parking lot, so designed as not to impair vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

9. Handicap Accessible Parking Requirements. As stated in Iowa SUDAS, provision of handicapped parking spaces within off-street parking areas shall be in accordance with ADA regulations, properly identified with signage and provided with accessible ramps and walks in accordance with ADA regulations, and comply with the following parking space minimum requirements stated therein.

10. Waiver of Requirements. The City Council reserves the right to waive or modify to a lesser requirement any provision or requirement of

off-street parking and loading areas contained in this chapter, provided a report on such change is received from the Planning and Zoning Commission, and provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property. Exceptions will only be considered for those uses where special circumstances warrant a change and whereby the modification or waiver is determined to be in the best interest of the general public.

175.28 VEHICLE PARKING, LOADING AND ACCESS STANDARDS.

1. Off-Street Parking Area Required. In any district, except the C-3 District designated as the "Central Business Area" on the zoning map, in connection with every permitted use, off-street parking area for vehicles of occupants, patrons, or employees of such use shall be provided in accordance with the following schedule:

A. Automobile sales and automotive service garages – 50 percent of gross floor area.

B. Banks, business and professional offices – 75 percent of gross floor area.

C. Bowling alleys – 5 parking spaces for each alley.

D. Churches and schools – 1 space for every 6 seats in a principal auditorium; when no auditorium is involved, 1 space for every 2 employees.

E. Dance halls, assembly halls - 200% of floor area used for dancing or assembly.

F. Dwelling – one- and two-family dwelling units – 2 parking spaces for each dwelling unit; multi-family dwelling units – 1½ spaces per bedroom; elderly and handicapped housing units – 1 space per unit. "Elderly housing" is defined as housing that is available to those 55 years of age and older. However, no person shall park any vehicles in the front yard adjoining a dwelling or residence and must park on a driveway or parking area constructed pursuant to a properly issued building or zoning permit. If the driveway cannot hold all of the vehicles necessary, then they must be parked on the street. In the event there is a special function at a residence or dwelling, vehicles may be parked in the front yard for a period of not to exceed 24 hours in any 7-day period. Parking of vehicles in side yards or back yards is permitted, but only under specific regulations set forth in this code.

G. Funeral homes, mortuaries – 1 parking space for each 5 seats in the principal auditorium, with at least 10 spaces to be provided.

H. Furniture and appliance stores, household equipment or furniture repair shops having over 1,000 square feet of floor area – 50% of floor area.

I. Hospitals – 1 space for every 2 beds.

J. Hotels, lodging houses – 1 space for each bedroom.

K. Manufacturing plants – 1 space for every 2 employees on the maximum working shift.

L. Restaurant, bar, or night club having over 1,000 square feet floor area – 250% of floor area; under 1,000 square feet, a minimum of 10 spaces.

M. Retail stores, supermarkets, etc., having over 2,000 square feet floor area – 300% of floor area.

N. Retail stores, shops, etc., under 2,000 square feet floor area – 100% of floor area.

O. Sports arenas, commercial auditoriums – 1 parking space for each 4 seats, theaters, or other assembly halls with fixed seats – 1 parking space for each 4 seats.

P. Wholesale establishments or warehouses – 1 parking space for every 2 employees.

Q. Drive-in windows at banks, offices, restaurants, or retail stores – stacking spaces within the site for at least 5 cars before windows.

R. Gasoline filling station – 4 spaces in addition to spaces at pumps.

Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Council after recommendation by the Commission, which shall consider all factors entering into the parking needs of each such use. Where two or more different uses occur on a single lot, the total amount of parking area to be provided shall be the sum of the requirements for each individual use on the lot, except that the Council may approve the joint use of parking area by two or more establishments on the same or on contiguous lots, the total capacity of which parking area is less than the sum of the area required for each, provided said Council finds that the capacity to be provided will

substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such uses.

2. Off-Street Loading Spaces Required. In any district, except the C-3 district designated as the "Central Business Area" on the zoning map, in connection with every building or part thereof hereafter erected having a gross floor area of 10,000 square feet or more and which is to be occupied by manufacturing, storage, warehouse, goods, display, retail store, wholesale store, market, hotel, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of the first 10,000 square feet. Each loading space shall be not less than 10 feet in width, and 25 feet in length, and such space may occupy all or any part of any required yard or court.

3. Location and Improvement of Parking Areas.

A. Required off-street parking areas shall be provided on the same lot or premises with the structures or land use they serve except that parking areas serving business and industrial uses may be established in an adjoining residence district, including across an alley, but such parking area shall not extend more than 100 feet inside the boundary of any residence district.

B. Off-street parking areas for business and industrial uses shall be improved with bituminous or concrete surfacing; all other permitted uses shall have at least a graveled or crushed stone surfacing. Parking areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Wheel guards or bumper guards as may be necessary shall be provided in connection with any off-street parking area of five (5) parking spaces or more to contain cars within the boundaries of the parking area and to prevent the bumpers of cars from projecting over sidewalks or property lines.

C. Parking areas shall be so laid out as to avoid broad expanses of parking and the inherent safety hazards which such large parking areas have, unless properly delineated with traffic islands, pedestrian ways, or landscaped areas. A combination of signs and suitable markings on the parking surface shall be provided to indicate individual parking spaces, directions of traffic flow, parcel pick-up areas and entrances and exits.

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175.29 SUPPLEMENTARY REGULATIONS. The supplementary regulations given herein apply to all districts. Where the requirements of a supplementary regulation and a district standard may seem to differ, the more restrictive requirement shall prevail.

1. Application of Regulations and District Standards. The regulations and standards set by this chapter shall be deemed minimum requirements and shall apply uniformly to all uses, land and buildings within each zoning district.

2. Conformance.

A. 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, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

(1) To exceed the height;

(2) To accommodate or house a greater number of families;

(3) To occupy a greater percentage of lot area; or

(4) 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. (Exception: If a greater or less than a 30-foot front yard has been established on any block, then no single-family dwelling shall be nearer the front property line than a general average of the setback distance in such block, as determined by the City Building Official.)

C. 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.

D. No yard or lot existing before February 3, 1969, shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after February 3, 1969, shall meet at least the minimum requirements established by this chapter. (Exception: Any lot existing before February 3, 1969,

that is narrower than the minimum requirements or has an area below the minimum requirements may be built on providing all other requirements are met.)

3. Street Frontage Required. No lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least 40 feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least 20 feet wide to a street; and there shall be not more than one single-family dwelling for such frontage or easement.

4. Accessory Structures. No accessory structure shall be erected in any required court, or in a front yard except as provided hereinafter. Accessory structures shall be a distance of at least 2 feet to roof overhang, from alley lot lines, and from lot lines of adjoining lots which are in an "R" district. On a corner lot they shall conform to the setback regulations of a main building from the side street. Accessory structures may be erected as a part of the principal buildings, or may be connected thereto by a breezeway or similar structure; provided all yard requirements for a principal building are complied with. An accessory structure which is not a part of the main building shall not exceed 16 feet in height; however, this regulation shall not be interpreted to prohibit the construction of a 440-square-foot garage on a minimum rear yard. It is the intent of this chapter that no accessory structure shall be constructed upon a lot until the main building has been actually commenced and no accessory structure should be used unless the main building on the lot is also being used or occupied, in the case of a residential structure, except in cases where the vacant lot is adjacent to and abuts the lot where the main building exists. An accessory structure shall not exceed 15 percent of the gross lot area. Unattached earth satellite dishes, unattached solar panels, and WECS shall be considered accessory structures.

5. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

6. Visibility at Intersections/Sight Triangles. On a comer lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of 2½ and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a

line joining points along said street lines 25 feet from the point of intersection of the right-of-way lines.

7. Fences, Walls and Hedges. Fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the side or front edge of any front yard shall be over 4 feet in height. Fences can be constructed at the property line and fences on corner lots shall be compliant with sight triangle restrictions as stated in subsection 4 of this section. The City must approve any fence prior to construction. All property lines shall be located and verified before fence approval will be given. The finished side of the fence must face adjoining property. The side opposite the posts and/or braces shall be deemed the finished side. Maintenance of the fence is the responsibility of the owner. Maximum fence height is determined by the fence location in the yard. The required front, side and rear yard requirements are measured from the point at which the City right-of-way ends and the property begins. If a dwelling is closer to the street than the required front yard distance, a fence must meet the required front yard requirements for that zoning district.

A. Front Yard: Fences in the required front yard are limited to 4 feet in height, with the required front yard area determined by zoning district.

B. Side Yard: Fences in the side yard shall not be more than 6 feet in height.

C. Rear Yard: Fences in the rear yard shall not be more than 10 feet in height.

8. Nonconforming Uses.

A. The lawful use existing at the time of the passage and adoption of this zoning ordinance, of building or property, may be continued although such use does not conform with the provisions hereof.

(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 or 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 one year, any subsequent use of

such land shall conform to the district regulations for the district in which such land is located.

B. Whenever, a district herein established shall hereafter be changed, any resulting nonconforming use of buildings in such changed district may be continued as though the change had not occurred, with the restrictions listed in (1) through (4) of paragraph A.

C. If any existing nonconforming use of a structure or land should be destroyed by any means to an extent of 60 percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. If the structure destroyed is less than 60 percent, it may be reconstructed and used as before, provided such reconstruction is done within one year of such happening and is built of like or similar materials.

D. Any new construction in areas designated as R-1, R-2, R-3, shall be not less than minimums previously established or platted in these areas, except no new dwellings to be constructed on back half of interior lots. It is mandatory, when obtaining building permits, to ascertain that the minimums as defined are not less than the established minimums in the area.

9. Standards for Individual Mobile Homes.

A. Mobile homes set for occupancy, must be placed in an approved mobile home park.

B. At any time an occupied mobile home now set on a private lot is moved from such lot, the lot will be declared vacant and setting of another or same mobile home for occupancy on the lot is prohibited.

10. Standards for Extraction of Natural Resources for Commercial Purposes.

A. The Council may permit the excavation of top soil, clay, sand, gravel or other natural material for commercial purposes provided that such excavation, or any operation necessary thereto, will not be detrimental to the appropriate and orderly development of any district in which it is situated or impair the value thereof, and subject to the excavation standards in this section.

B. All excavations and any other operations accessory thereto shall be made only in accordance with approved plans. These

plans shall show the location of the site and its relation to neighboring properties and roads within 500 feet of the site, area to be excavated, existing slopes, proposed slopes after excavation, proposed level of any impounded water, plans for erosion control and location of access drives into the site.

C. No excavation shall be closer than 50 feet to any street line or other property line, and no excavation below the grade of a street or property line shall be closer than 100 feet thereof. No excavation shall be closer than 300 feet to the boundary line of any residential zoning district.

D. The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material, except where a suitable retaining wall, as shown on approved plans, is built to provide lateral support.

E. If required by the Council, the applicant shall enclose within a fence all operations in connections with such excavation or any part of such operations, such fence to be of such type and height as the Council may specify.

F. If required by the Council, the applicant, either at the conclusion of the excavating or by such stages during the progress thereof as may be required, shall restore the excavated areas to such grades as the Council may specify, cover such restored portions with topsoil of a sufficient depth to support normal vegetation, and seed or otherwise plant the same in such manner as the Council may specify.

G. No excavation operations shall take place between the hours of 8:00 p.m. and 6:00 a.m., or at any time on Sunday.

11. Social, Cultural and Recreational Non-Profit Uses.

A. The use shall be a non-profit, membership association founded for one or more of the purposes enumerated below, and shall be operated solely for a recreational, social, patriotic, benevolent, religious, educational or athletic purpose. The non-profit use shall not be used in whole or in part for the conduct of any business or enterprise for profit, but this shall not be construed as preventing the utilization of a club for benefits or performances of a recognized charity, nor for meetings of other organizations, nor for educational and cultural purposes. Privileges of the non-profit use shall be limited to bona fide, regularly enrolled dues-paying members and guests accompanying them.

B. At least one off-street parking space shall be provided for every member, except that in the case of membership issued to families, there shall be at least one off-street parking space for each family, with the further exception that clubs with a capacity which can be measured in number of seats shall provide one off-street parking space for every five such seats. The Council may reduce these parking requirements where the maximum anticipated number of cars at a club, because of its particular type, location, hours of operation, club facilities, or other reason, but not less than one space for each three memberships. Parking areas shall be located at least 15 feet from all property lines. The Council may require suitable landscaping around parking areas which shall be permanently improved. Access drives from existing streets and highways shall be located so as to avoid unsafe conditions and traffic congestion.

C. A non-profit use, organized for purposes which are conducted within a building, shall be located on a site at least one acre in area. All buildings shall be set back at least 50 feet from all property lines and shall not cover more than 20 percent of the site.

D. A non-profit use, organized for purposes which are conducted outdoors, shall be located on a site at least two acres in area. All buildings and all structures such as swimming pools, shall be set back at least 100 feet from all property lines, and shall not cover more than ten percent of the site. Outdoor public address systems and floodlights may be approved after review of use and location by the Commission.

12. Apartment, Town House and Other Multi-Family Homes.

A. Any proposed street, whether to be offered for public dedication or not, or whether to be part of a proposed subdivision or not, shall be laid out and improved in accordance with the provisions of Chapter 177 of this Code of Ordinances.

B. All driveways and off-street parking areas shall be suitably graded and improved with paving to provide a well-drained parking surface. Suitable markings or signs shall be provided to indicate parking spaces, aisles, entrances and exits.

C. All buildings shall be served by a water supply and a sanitary sewer system satisfactory to and approved by the Council.

All development shall be in accordance with a site plan as approved by the Council, after review and recommendation by the Commission. The approved plan, and any conditions or modifications attached thereto, shall be filed with the Building Inspector.

13. Wind Energy Conservation Systems (WECS).

A. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a special use permit approval if the Planning and Zoning Commission finds that the reduction is consistent with public health, safety, and welfare.

B. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a special use permit approval if the Planning and Zoning Commission finds that the reduction does not impede the operation of either WECS.

C. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.

D. A fence six feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.

E. The WECS is exempt from the height restrictions of the base district.

14. Site Plan Review Fee. A fee shall be paid at the time a site plan is submitted for review. The fee per review shall be per the Schedule of Fees. If more than one review is needed so that the changes requested can be verified, a separate fee shall be paid for each review prior to the review.

15. Adult Use Restrictions. The following restrictions are applied to adult use establishments as defined herein:

A. Definitions. The following terms shall have the following meanings as used in this subsection:

(1) Adult Arcade -- Any commercial establishment to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically-controlled still or motion-picture machines,

projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by the depicting or describing specified sexual activities or specified anatomical areas.

(2) Adult Bookstore or Adult Video Store -- A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

a. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

b. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "adult bookstore" or "adult video store" so long as one (1) of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

(3) Adult Cabaret -- A nightclub, bar, restaurant or similar commercial establishment which regularly features:

a. Persons who appear in a state of nudity;

b. Live performances characterized by the exposure of specified anatomical areas or by specified sexual activities; or

c. Films, motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(4) Adult Motel -- A hotel, motel or similar commercial establishment which:

a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

b. Offers a sleeping room for rent for a period of time less than ten (10) hours; or

c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time less than ten (10) hours.

(5) Adult Motion-Picture Theater -- A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(6) Adult Theater -- A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(7) Escort -- A person who, for consideration, agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) Escort Agency -- A person or business association that furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration.

(9) Establishment -- Includes any of the following:

a. The opening or commencement of any sexually-oriented business as a new business.

b. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business.

c. The addition of any sexually-oriented business to any other existing sexually-oriented business.

d. The relocation of any sexually-oriented business.

(10) Nude Model Studio -- Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

(11) Nudity or State Of Nudity -- The appearance of human bare buttocks, anus, male genitals, female genitals or full female breast.

(12) Person -- An individual, proprietorship, partnership, corporation, association or other legal entity.

(13) Seminude -- A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(14) Sexual Encounter Center -- A business or commercial enterprise that, as one (1) of its primary business purposes, offers for any form of consideration:

a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

b. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nudity.

(15) Sexually-Oriented Business -- An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

(16) Specified Anatomical Areas -- The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

(17) Specified Sexual Activities -- Includes any of the following:

a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

c. Masturbation, actual or simulated.

d. Excretory functions as part of or in connection with any of the activities set forth in subsections a through c above.

(18) Substantial Enlargement of a Sexually-Oriented Business -- The increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exists on date of enactment.

(19) Transfer of Ownership or Control of a Sexually-Oriented Business -- Includes any of the following:

a. The sale, lease or sublease of the business.

b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.

c. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

B. Uses Permitted.

(1) The following uses, as hereinbefore defined, shall be designated adult uses:

a. Adult arcades.

b. Adult bookstores or adult video stores.

c. Adult cabarets.

d. Adult motels.

e. Adult motion-picture theaters.

f. Adult theaters.

g. Escort agencies.

h. Nude model studios.

i. Sexual encounter centers.

j. Any use which is interpreted by the Building Official to be a use similar to one of the above-named uses and in conformance with the intent of this district.

(2) Adult uses shall be a permitted in any M-3(Light Industrial District) or M-4(General Industrial District) provided that:

a. An adult use may not be operated within two thousand (2,000) feet of:

(i) A church, synagogue or regular place of worship.

(ii) A public or private elementary or secondary school or child-care facility.

(iii) A boundary of any residential district.

(iv) A boundary of any property used for or planned for residential use.

(v) A public park adjacent to any residential district.

b. An adult use shall be setback a minimum of 200-feet from any road right-of-way.

c. An adult use may not be operated within one thousand (1,000) feet of another adult use, or on the same lot or parcel of land.

d. An adult use may not be operated in the same building, structure or portion thereof containing another adult use.

e. For the purpose of this subsection, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure

used as part of the premises where an adult use is conducted to the nearest property line of the premises of a church or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential use lot.

f. For purposes of this subsection, the distance between any two (2) adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

C. Inspection Requirements:

(1) A person may operate an adult use business only within the specified districts with a Conditional Use Permit issued by the City of Boone, in accordance with the provisions of this chapter of the City of Boone's Zoning Ordinance.

(2) Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, rules and regulations of the Police Department, Fire Department, and Building Official.

(3) The Building Official shall suspend the right to conduct such adult use for a period not to exceed thirty (30) days if the officer or official determines that the owner and/or operator or an employee of the owner and/or operator has:

a. Violated or is not in compliance with any provision of this subsection.

b. Engaged in excessive use of alcoholic beverages while on the adult use business premises.

c. Refused to allow an inspection of the adult use business premises as authorized by this subsection.

d. Knowingly permitted gambling by any person on the adult use business premises.

e. Knowingly allowed possession, use or sale of controlled substances on the premises.

f. Knowingly allowed prostitution on the premises.

g. Knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises.

(4) An applicant or permittee shall permit representatives of the Boone Police Department, Fire Department, and Building Official to inspect the premises of an adult use business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(5) Prior to any suspension, the Building Official shall provide the owner and/or operator a notice with the grounds for the suspension. The notice stating the grounds shall be provided to the owner and/or operator in writing. The owner and/or operator has the right to present its response to this notice to the Building Official within ten (10) days of receipt of said notice. The response may be made in person, orally, or in writing. The Building Official may not suspend the right to conduct such adult use until fifteen (15) days after the notice is given to the owner and/or operator or until after receiving the owner's and/or operator's response, whichever is sooner.

D. Enforcement:

(1) A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any way which is contrary to these regulations shall be subject to prosecution, or in the alternative, violation of this law may be enforced by injunction.

(2) The continuation of a violation of the provisions of this subsection shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.

(3) Each violation of the provisions of this subsection is subject to enforcement in accordance with the Boone Municipal Code.

(4) If any part or provision of this subsection or the application thereof to any persons or circumstances shall be judged invalid, such judgment shall be confined to the part or application adjudged to be invalid. Such decision shall not affect the validity of the subsection as a whole or any part thereof, other than the part so decided to be invalid.

E. Appeal Process:

(1) Any party who disagrees with the decision of the Building Official, Plan and Zoning Commission, or City Council on any matter relating to this subsection of the zoning ordinance may appeal their case to the Iowa District Court either by way of a Writ of Certiorari or a petition at law or equity.

(2) The filing of an appeal shall stay any action of either party until the Court has ruled on the appeal or until a final judgment is entered.

(Ord. 2145 – Sep. 09 Supp.)

16. Utility Easement Requirements. All developers and subdividers must provide utility easements for telephone, electric and cable television service lines so that complete, continual and unrestricted access may be gained to all areas of said easement. There shall also be a provision for an easement to the front of at least two lots per block to permit overhead lines for street lighting, where the utility easement exists to the rear of each lot. In developments and subdivisions where underground electric, phone and cable television lines are required, and the utility easement is to the rear of each lot, there shall be provided a minimum 10-foot easement at two locations per block from the rear utility easement to the front public right-of-way for the purpose of burying electric cable for street lighting. All underground burying and wiring to street lights shall be at the developer's or subdivider's expense. In developments and subdivisions where underground electric, telephone and cable television lines are installed in front yard easements, all burying and wiring to the street lights shall also be at the developer's or subdivider's expense. The actual wiring of the street lights shall be at

the City's expense. If special lighting is requested, all expenses of the special lighting shall be at the expense of the developer or subdivider or residents if requested after development or subdividing has been completed.

17. Street Lighting Requirements. A developer of any subdivision shall submit their street light plans to the local utility provider and the City for review and approval prior to final approval of the subdivision. The developer must have the entire street light system designed and installed by the local utility provider or street light maintenance company. All costs associated with the design, development and installation of the street light plan shall be paid by the developer. Street lighting installed according to this section will be maintained by the City.

18. Structures on Public Right-of-Way. All structures, including decorative posts and pillars, to be constructed on public right-of-way must be approved prior to their construction. The party requesting permission to construct the structure must make application to the Building Official and submit a complete plan to scale of the structure indicating the exact location for the structure in relationship to the curb line, sidewalk and any driveways or entrances to adjoining property. The Building Official will provide the necessary specifications for the structure. The party wishing to construct the structure must contact "One-Call" before any construction is commenced and have all utilities located. This shall include any water or sewer lines. If the structure is to house a mailbox, it must also meet the U.S. Postal Standards for mailboxes, including the correct height. In the event the structure has to be removed to service, repair, construct or reconstruct any public utility or adjoining street, the owner shall be responsible for all costs associated with removing the structure and reconstructing it. In the event the structure houses a mailbox and is damaged or destroyed by any equipment of the City, the City will be responsible for replacing only a mailbox and a post, not the structure as constructed. If the structure does not house a mailbox, the City is relieved from any responsibility for any damage or destruction of the structure by any City equipment. The Building Official shall have complete discretion as to the type, size, material and location of the structure.

(Ord. 2159 – May 10 Supp.)

175.30 ZONING BOARD OF ADJUSTMENT.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members to be appointed by the Mayor. No more than two members shall be involved in the business of purchasing or selling of real estate. Members of the Board shall be appointed for staggered terms of five years each.

2. Meetings. The meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

3. Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Building Official. Such appeal shall be made within ten (10) days by filing with the Building Official and with the Board a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board, after notice of appeal shall have been filed with said official, that by reason of the facts stated in the certificate a stay would, in the opinion of the Building Official, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the Building Official, and on due cause shown. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay a fee as listed in the Schedule of Fees to be credited to the General Fund of the City.

4. Powers and Duties. The Board shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Building Official in the enforcement of this chapter.

B. To grant a variance in the regulations when a property owner can show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations the strict application of the terms of this chapter actually prohibits the use of such property in a manner reasonably similar to that of other property in the District, or where the Board is satisfied under the evidence before it, that the granting of such variances under this clause shall be in harmony with the purposes of this chapter.

C. To permit the following exceptions to the district standards set forth in this chapter, provided all exceptions shall by their design, construction and operation adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas.

D. To permit the extension of a district where the boundary line of a district divides a lot in a single ownership as shown on record or by existing contract or purchase at the time of the passage of the ordinance codified in this chapter, but in no case shall such extension of the district boundary line exceed 50 feet in any direction.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm wholly or partly, or modify the order, requirement, decision or determination. The concurring vote of four of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Building Official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, provided however, that the action of the Board shall not become effective until after the resolution of the Board is filed in the office of the City Clerk and shall be open to public inspection.

5. Decisions. Every variance and exception granted or denied by the Board shall be supported by a written record of the procedures in

connection therewith. Any taxpayer, or any officer, department, board or bureau of the City or any person aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for 30 days from the date of the remand.

175.31 AMENDMENTS. The regulations, restrictions and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than 20 days prior to the hearing. The regulations, restrictions and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the Clerk and signed by the owners of 20% or more of the property which is located within 200 feet of the exterior boundaries of the property for property located within the corporate City limits and one-half (1/2) mile for property located outside the corporate limits subject to this chapter, for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths (3/4) of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. The party or parties proposing or recommending a change in the district regulations or district boundaries shall deposit with the Clerk, before any action shall be taken, a fee in accordance with the Schedule of Fees shall be collected to cover the approximate costs of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

175.32 ADMINISTRATION, ENFORCEMENT AND PENALTIES. An administrative official designated by the Council shall administer this chapter. Said official may be provided with the assistance of such other persons as the Council may direct. If the administrative official shall find that any of the provisions of this chapter are being violated, such official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The administrative official shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations; or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this chapter. Each person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of Boone is committed, continued or permitted by any such person, and said person shall be punished accordingly. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ch. 175 - Ord. 2138 – Sep. 08 Supp.)

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 175.06 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
1154		1665	March 19, 1990
1155		1681	October 15, 1990
1163		1682	November 5, 1990
1201		1695	April 1, 1991
1208		1722	October 7, 1991
1217		1736	August 3, 1992
1219		1738	October 5, 1992
1225		1744	November 3, 1992
1229		1745	November 3, 1992
1233		1757	June 7, 1993
1239		1803	January 2, 1996
1245		1814	August 19, 1996
1281		1817	September 16, 1996
1306		1828	February 18, 1997
1326		1833	June 16, 1997
1394		1845	October 14, 1997
1396		1859	May 4, 1998
1397		1860	May 18, 1998
1400		1865	August 3, 1998
1406		1866	August 17, 1998
1414		1867	August 17, 1998
1424		1870	August 17, 1998
1440		1871	September 8, 1998
1444		1896	August 16, 1999
1470		1926	December 4, 2000
1476		1928	December 4, 2000
1497		1949	September 4, 2001
1534		1962	March 4, 2002
1613		2018	March 1, 2004
1622		2031	August 9, 2004
1624		2074	March 6, 2006
1632		2101	April 30, 2007

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
2106	June 4, 2007		
2126	December 17, 2007		
2151	July 20, 2009		
2187	December 3, 2012		
2188	January 7, 2013		
2206	October 20, 2014		

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CHAPTER 176

AIRPORT ZONING REGULATIONS

176.01 Purpose
176.02 Definitions
176.03 Airport Zones and Airspace Height Limitations
176.04 Use Restrictions
176.05 Lighting
176.06 Variances
176.07 Administration and Enforcement
176.08 Notification of Proposed Development
176.09 Equitable Remedies
176.10 Prohibited Acts
176.11 Conflicting Regulations

176.01 PURPOSE. This chapter is established to prevent the creation or establishment of airport hazards and to authorize the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards and to authorize the expenditure of public funds, as an incident to the operation of the Boone Municipal Airport, to acquire land or property interests to carry out the provisions contained herein.

176.02 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Boone Municipal Airport.

2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 1,147 feet.

3. "Airport hazard" means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in 14 CFR FAR, Part 77, and which obstructs or is otherwise hazardous to the landing or take-off of any aircraft at the Airport, or hazardous to persons or property on the ground.

4. "Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

5. "Airspace height" means, for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

6. "Boone Municipal Airport Overlay Zoning Map" means the charts or maps of the Boone Municipal Airport on which the airport overlay zones are depicted. Copies of such maps are on file in the office of the Building Official and the Boone County Zoning Administrator.

7. "Control zone" means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

8. "Inner edge" means the edge of any zone which is closest to the runway end to which the zone applies. The inner edge is perpendicular to the runway centerline.

9. "Instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.

10. "Minimum descent altitude" means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.

11. "Minimum en route altitude" means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

12. "Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

13. "Non-compatible use" means any activity that would degrade the safety of people on the ground, or occupants of aircraft in flight, including but not limited to landfills or other activities that attract birds or other wild life, smoke or steam producing activities, and those that lead to an assembly of people, including, but not limited to residences, churches, schools, hospitals, office buildings, shopping centers and other uses with similar concentrations of persons.

14. "Nonconformities" means any structure or portion thereof which does not conform to the provisions of this chapter relative to height and any use not allowed within the airport overlay zone in which it is located

by reason of the adoption of any ordinance or subsequent amendments thereto.

15. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

16. "Structure" means any object, whether permanent or temporary, stationary or mobile, constructed or installed by humans, including but not limited to buildings, towers, smokestacks, scaffolds, lighting fixtures, public and private roads, railways and overhead transmission lines, including poles or other structures supporting the same.

17. "Tree" means any object of natural growth.

18. "Visual Runway" means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

176.03 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Boone Municipal Airport Overlay Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. Horizontal Overlay Zone – HOZ: The airspace above a horizontal plane, the perimeter of which is established by swinging arcs of 10,000 foot radii from the center of the inner edges of the AO zones of runway 14/32 (15/33) and connecting the adjacent arcs by lines tangent to those arcs. The floor of the HOZ is 1312 feet above mean sea level.

2. Conical Overlay Zone - COZ: The airspace above a sloped horizontal plane beginning at the periphery of the HO zone and rising one foot in height for each 20 feet horizontally (20:1) for a horizontal distance of 4,000 feet.

3. Transitional Overlay Zone - TO: The airspace above a sloping plane rising from the sides of each runway and from the sides of each AOZ at the rate of 1 foot of elevation for each 7 feet horizontally (7:1). The TO zones for the Airport are as follows:

A. Runway 2/20: Along each side of the runway, beginning at a point 250 feet from the centerline of the runway and at right

angles to the centerline, and from each side of the AO zone at each end of the runway at right angles to the extended runway centerline. The TO zone ends at the point where it intersects the HO zone.

B. Runway 14/32 (15/33): Along each side of the runway, beginning at a point 500 feet from the centerline of the runway and at right angles to the centerline, and from each side of the AO zone at each end of the runway at right angles to the extended runway centerline. The TO zone ends at the point where it intersects the HO zone.

4. Approach Overlay Zone - AO: An airspace area extending outward from each end of each runway, rising uniformly at a fixed ratio, and of fixed size, through which aircraft commonly operate when arriving at and departing the Airport. AO Zones vary in size and slope based upon the present or future use that can be expected for each Airport runway. The AO Zones at the Airport are as follows:

A. Runway 2/20. Beginning at each end of the runway and centered on the extended centerline of the runway, the inner edge of each AO zone is 250 feet wide, expanding uniformly to an outer edge width of 1250 feet. The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. The floor of the zone rises from the inner edge 1 foot for each 20 feet of horizontal distance (20:1), for a distance of 5,000 feet.

B. Runway 14 (15). Beginning 60 feet beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 1,000 feet wide, expanding uniformly to an outer edge width of 3,500 feet. The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. The floor of the zone rises from the inner edge 1 foot for each 34 feet of horizontal distance (34:1), for a distance of 10,000 feet.

C. Runway 32 (33). Beginning 200 feet beyond the paved portion at the end of the runway and centered on the extended centerline of the runway, the inner edge of the zone is 1,000 feet wide, expanding uniformly to an outer edge width of 4,000 feet. The altitude of the inner edge is the same as the altitude of the runway threshold at the centerline. The floor of the zone rises from the inner edge 1 foot for each 34 feet of horizontal distance (34:1), for a distance of 10,000 feet.

5. Controlled Activity Zone - (CA): An area beginning at and extending from each end of each runway, of fixed size, extending to and underlying the innermost portion (closest to the runway end) of the AO zone for that runway, descending from the floor of the AO zone to the ground. The width of the CA zone is the same width as the AO zone for each end of each runway. The length of the CA zone may be different on each runway end. The CA zones for the Airport are as follows:

A. Runway 2/20. Underlying the innermost 1200 feet of the AO zone at each end of the runway, the width of the CA zone is the same width as that of the AO zone.

B. Runway 14 (15). Extending from the end of the pavement to, and underlying the innermost 1,000 feet of the AO Zone at the northwest end of the runway, the width of the CA Zone is 500 feet at the inner edge and expands uniformly to a width of 700 feet.

C. Runway 32 (33). Extending from the end of the pavement to, and underlying the innermost 1,700 feet of the AO Zone at the southeast end of the runway, the width of the CA Zone is the same width as that of the AO Zone.

176.04 USE RESTRICTIONS. Notwithstanding any other provisions of Section 176.03, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. Lighting. All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.

2. Visual Hazards. No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.

3. Electronic Interference. No operations from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

4. Height of Structures. No structure shall be erected that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased.

176.05 LIGHTING. Notwithstanding the provisions of 176.03, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City or County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

176.06 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Airport Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Airport Board of Adjustment unless a copy of the application has been submitted to the Municipal Airport Commission for an opinion as to the aeronautical effects of such a variance. If the Municipal Airport Commission does not respond to the Airport Board of Adjustment within sixty (60) days from receipt of the copy of the application, the Board may proceed make its decision to grant or deny the variance without further input from the Commission. Any person or party believing that his or her project is either excepted from the provisions of this chapter or who believes that an exception should be granted for his or her project, is to make a written request to the Airport Board of Adjustment requesting that an exception be granted. The application shall include a complete explanation of the project, references to any Federal, State or local statute which would establish grounds for an exception, and a complete drawing to scale of the project. The Airport Board of Adjustment shall respond within sixty (60) days of the request with a denial or exception.

176.07 ADMINISTRATION AND ENFORCEMENT.

1. Administration. The administration of these zoning regulations shall be performed by the appropriate County or City Building Official, as the case may be. Enforcement of these zoning regulations shall be the responsibility of the Boone Municipal Airport Commission or through such persons or representatives as the Boone Municipal Airport Commission may, from time to time, direct. However, as provided by the Code of Iowa, as amended, such duties of enforcement and administration shall not include any of the powers herein delegated to the Airport Board of Adjustment.

2. Zoning Commission. A Boone County/Boone Airport Zoning Commission is hereby created. The Airport Zoning Commission shall consist of five (5) members, two (2) of whom shall be appointed by the

Board of Supervisors of Boone County and two (2) of whom shall be selected by the City Council of the City of Boone and one additional member to act as chairperson. The chairperson shall be selected by a majority vote of the members selected by the Board of Supervisors and City Council. The terms of such members shall be as provided by the Code of Iowa, as amended. The Zoning Commission shall have the powers and duties and shall follow the procedures provided in the Code of Iowa, as amended.

3. Airport Board of Adjustment. An Airport Board of Adjustment ("Board") is hereby established. The Board shall consist of five (5) members, two (2) of whom shall be appointed by the Board of Supervisors of Boone County and two (2) of whom shall be appointed by the City Council of Boone and one additional member to act as chairperson. The chairperson shall be selected by a majority vote of the members selected by the Board of Supervisors and City Council. The terms of such members shall be as provided in the Code of Iowa, as amended. The Board shall have the powers and duties and shall follow the procedures provided by the Code of Iowa, as amended.

176.08 NOTIFICATION OF PROPOSED DEVELOPMENT.

1. Any person who proposes any development of a height greater than an imaginary surface extending outward and upward at a slope of one hundred to one (100:1) for a horizontal distance of twenty thousand feet (20,000') from the nearest point of the nearest runway, shall notify the Federal Aviation Administration (FAA). One executed form set (4 copies) of FAA Form 7460-1, *Notice of Proposed Construction of Alteration*, as amended, shall be sent to the Chief, Air Traffic Division, of the FAA Regional Office in Kansas City, Missouri, and one copy to the appropriate County/City Building Official. Copies of FAA Form 7460-1 may be obtained from the FAA. (See Federal Aviation Regulations, section 77.13, as amended.) The developer must also submit a statement of use to the appropriate County/City Building Official for review to determine if said use is a permissible use for the designated area. Once the FAA has replied to the developer, that reply shall be submitted to the Building Official. The appropriate Building Official shall review all submissions, and in the event the Building Official does not agree with the FAA determination, it shall be submitted to the Boone Airport Zoning Commission for final determination to be rendered no later than sixty (60) days after submission.

2. Exception: No person is required to notify the FAA Administrator of the construction or alteration of any object that would be shielded by existing structures of a permanent and substantial

character or by natural terrain or topographic features of equal or greater height and would be located in the congested area of a city, town or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. (See *Federal Aviation Regulations*, Section 77.15, as amended.) It shall be the responsibility of the appropriate building official, prior to issuance of a building permit for such object, to determine whether or not the shielding satisfies the foregoing requirements."

176.09 EQUITABLE REMEDIES. The City or the Boone Airport Commission may, as authorized by the Code of Iowa, as amended, maintain an action in equity to restrain and abate as a nuisance the creation or establishment of an airport hazard pertaining to the Boone Municipal Airport in violation of these regulations for any area, whether within or without the territorial limits of the City.

176.10 PROHIBITED ACTS. It is unlawful for any person to do any of the acts hereinafter stated unless a provisional modification, special exception or variance from the provisions of these regulations has been granted:

1. No person shall erect or increase the height of any structure or permit the growth of any tree to a height in excess of that provided by any of these regulations for the zone or area were such act occurs, except as provided in this chapter.

2. No person shall place or cause to be placed, above ground, transmission or distribution lines or poles or other structures supporting the same within two hundred feet (200') of the outer boundary of the airport as said boundary is shown on the airport overlay zoning map.

3. No person shall otherwise use property within a zone established by these regulations in violation of the use restrictions of these regulations or in such a manner as to create an airport hazard as defined herein, except as provided in this chapter.

176.11 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

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CHAPTER 177

SUBDIVISION REGULATIONS

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177.01 GENERAL PROVISIONS.

1. Title. This chapter shall be known and may be cited and referred to as the "City of Boone, Iowa, Subdivision Ordinance."

2. Purposes and Objectives. This Subdivision Ordinance is adopted to establish rules, regulations and minimum standards for the design, development and improvement of all new subdivisions and re-subdivisions within the City, in order to promote the public health, safety, peace, comfort, convenience, prosperity, and general welfare of the present and future citizens of City of Boone, Iowa, all in accordance with and as permitted by the provisions of Chapter 354, Code of Iowa, as amended. It shall be administered in order to insure the orderly growth and development, the conservation, protection, and the proper use of land, and for the adequate provisions for public utilities, services and circulation. More specifically, the Ordinance is adopted in order to achieve the following objectives, among others:

A. To establish reasonable standards of design and procedures for approval of subdivisions in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.

B. To cause the cost of design and installation of improvements required for a subdivision to be borne by the developer, rather than by the direct or indirect burden upon property owners beyond the limits of the subdivision.

C. To protect the character and the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of all parts of the City.

D. To insure the installation of adequately sized utilities and adequate streets.

E. To promote a safe, effective traffic circulation system.

F. To secure economy in government expenditures.

G. To insure that public facilities, where available, will have a sufficient capacity to serve the subdivision.

H. To encourage the most appropriate use of land in the City.

I. To improve land records by establishing standards for surveys and plats.

3. Jurisdiction. The provisions of this Ordinance shall apply to all of the unincorporated territory of City of Boone, Iowa.

4. Plats in Unincorporated Areas within Two Miles of the Corporate Limits of Boone. The purpose of this section is to facilitate the orderly processing of subdivisions in unincorporated areas of the City within two miles of the corporate limits to avoid conflicting regulations while at the same time assuring that provisions are made for proper and orderly future growth of the City and County. These regulations govern any plat for subdivision of any area of land within the City, or outside the City, but within two miles of the City boundaries, including any plat of survey, within Boone County, Iowa.

5. Application of Regulations. The regulations set forth by this Ordinance shall apply to all subdivisions of land, as defined herein, located within the jurisdiction of the City:

A. No plat of any subdivision within the application of this Ordinance shall have any validity until the plat has been prepared, approved and acknowledged in the manner prescribed in this Ordinance.

B. The subdivision of any tract or parcel of land for the purpose of sale, transfer or lease with the intent of evading the provisions of this Ordinance shall not be permitted. All such described subdivisions shall be subject to all the requirements contained in this Ordinance.

C. No permit, license or certificate shall be issued by a department, official or public employee of the City vested with such duty or authority, for any use, building or other purpose on a parcel or tract which is not a lot of record at the effective date of adoption of this Ordinance or which has been approved and not yet recorded within one year in accordance with the provisions of this Ordinance or past ordinances. Any permit, license or certificate issued in conflict with the provisions of this Ordinance shall be null and void and of no effect.

D. No public improvements shall be made by the City Council with City funds, nor shall any City funds be expended for road maintenance, road improvements, or any other services in any area that has been subdivided after the effective date of this Ordinance, unless such subdivision and streets have been approved in accordance with the provisions of this Ordinance and the street accepted by the City Council as a public street.

6. Classification of Subdivisions. Except as provided in Section 177.13(8), whenever any division of a tract or parcel into two or more parcels is proposed, before any contract is made for the sale of any part thereof, and before any zoning permit is issued for the erection of any structure upon such land, the owner of the land, or an authorized agent, shall apply and secure approval of the particular type of division, as described below.

177.02 PROCEDURE FOR APPROVAL OF SUBDIVISION.

1. The procedure for approval of a major subdivision, as defined in §177.09(70), shall consist of a:

A. Sketch Plan, as described in Section 177.10.

B. Preliminary plat, as described in Section 177.11.

C. Final construction plans, as described in Section 177.12.

D. Final plat, as described in Section 177.13.

2. The procedure for approval of a minor subdivision, as defined in §177.09(70), shall consist of a:

A. Sketch Plan, as described in Section 177.10.

B. Preliminary plat, as described in Section 177.11.

C. Final plat, as described in Section 177.13.

3. The procedure for approval of a property split, as defined in §177.09(70), shall consist of a:

A. Sketch Plan, as described in Section 177.10.

B. Recorded Survey.

4. The procedure for approval of a property line adjustment, as defined in §177.09(70), shall consist of a:

A. Sketch Plan, as described in Section 177.10.

B. Recorded Survey. The recorded survey must include an affidavit stating that future sale of land must include both parcels.

177.03 EXEMPTIONS. Regulations or restrictions adopted under the provisions of this Ordinance shall not be construed to apply in the following instances or transactions:

1. The division of land into burial lots in a cemetery.

2. A conveyance of land or interest therein for use of right-of-way by a railroad or other public utility subject to State or Federal regulations, where such conveyance does not involve the creation of any new public or private street or easement of access.

3. A conveyance of land or interest therein to adjoining property owners of vacated right-of-way by a railroad or other public utility subject to State or Federal regulation, where such conveyance does not involve the creation of any new parcel.

4. A conveyance of land by the State or City for right-of-way or other public use when such acceptance is in the public interest and not for the purpose of circumventing these regulations.

5. A conveyance of land in forty-acre aliquot parts.

177.04 PRE-EXISTING DWELLING SUBDIVISION. A subdivision platted for the sole purpose of dividing the property among the owners of dwellings which were constructed prior to July 1, 2008, shall be exempt from the provisions of §177.10(1)(E) and §177.14(7), provided that all lots platted have positioned upon them dwellings which were so constructed prior to July 1, 2008, and further provided that no new vacant building lots are being created.

177.05 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that extraordinary hardships or practical difficulties may result from strict compliance with the provisions of this Ordinance and/or the purposes of this Ordinance may be served to a greater extent by an alternative proposed, the City Council, upon recommendation of the Commission, may approve variances from the provisions of this Ordinance so that substantial justice may be done and the public interest secured; provided however, that such variances shall not have the effect of nullifying the intent and purpose of these regulations. The City Council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare or the rights of adjacent property owners.

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

4. In no case shall any variance be more than a minimal easing of the standards or requirements as necessary to eliminate the hardship. In no case shall any street standard variance have the effect of reducing the traffic capacity of any street.

5. The variance will not adversely affect the City's Comprehensive Development Plan or in any manner vary the provisions of the City Zoning Ordinance.

In approving variances, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this Ordinance. A request for such variances shall be submitted in writing by the developer at such time the application for preliminary plat approval is submitted for consideration by the Commission. The variance requests shall be accompanied by a fee as specified in Section 177.16. Said request shall state fully the grounds for the request and all of the facts relied upon by the developer. Any variance recommended by the Commission to the City Council shall be by written record, which shall include findings of facts, and shall refer to all the evidence in the record.

177.06 VACATION PROCEDURES. In addition to the provisions concerning the vacation of plats as stipulated in Chapter 354, Code of Iowa, as amended, the following shall apply:

1. Any subdivision plat or portion thereof may be vacated by the owner in the event there has been no sale of any lots within the plat or a portion thereof within two years after final plat approval by the City Council.

2. Any vacation of a plat shall be made by written instrument, to which a copy of such plat is attached, declaring the same to be vacated.

3. The City Council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements or streets.

4. Such an instrument shall be executed, approved and recorded in a like manner as plats of subdivisions; and being duly recorded shall operate to annul the force and effect of the recording of the plat so

vacated, and to divest all public rights in the streets and public grounds dedicated to the City as set forth on the final plat. If the City Council approves such vacation where the City had acquired an interest, by deed, in any property proposed to be dedicated to the City as set forth on the final plat, the City shall re-convey such interest, by deed, to the applicant, property owner or his or her successor in interest.

177.07 INTERPRETATION OF STANDARDS. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions, covenants, or other provisions of law, the most restrictive, or that imposing the higher standards, shall govern.

177.08 CONSTRUCTION OF TERMS. For the purpose of this Ordinance, certain terms and words are hereby defined. The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

1. Tense. Words used in the present tense include the future tense.

2. Number. Words used in the singular include the plural, and words in the plural include the singular.

3. Shall and May. The word "shall" is mandatory; the word "may" is permissible.

4. Gender. The masculine shall include the feminine and the neuter.

5. Person. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

6. Used or Occupied. The words "used" and "occupied" include the words "intended, designed, or arranged to be used or occupied."

7. Headings. In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

177.09 DEFINITIONS.

1. "Abutting" means a common boundary. Land areas separated by a public or private road, highway, street, alley or way, or by a waterway or body of water shall not be construed as abutting herein.

2. "Alley" means a dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.

3. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half (½), one-quarter (¼), one-half (½) of one-quarter (¼) or one-quarter (¼) of one-quarter (¼) shall be considered an aliquot part of a section.

4. "Auditor's plat" means a subdivision plat prepared at the request of the County Auditor to clarify property descriptions for the purposes of assessment and taxation. Such plats are not intended to satisfy the requirements of this Ordinance.

5. "Block" means an area of land within a subdivision that is entirely bounded by public streets or lands, streams, railroads, unplatted lands or a combination thereof.

6. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.

7. "Building setback line" means the required minimum horizontal distance between the front, rear or side lines of the parcel or tract and the front, rear or side lot line of the building respectively for a particular zoning district. Setback may also be referred to as required yard.

8. "City Engineer" means the City Engineer of Boone, Iowa.

9. "City infraction" means a civil offense punishable by a civil penalty and issued by means of a citation.

10. "City Zoning Ordinance" means the City of Boone, Iowa, Zoning Ordinance.

11. "Cluster lot" means a group of three or more lots, each of which must abut common or dedicated ground on one or more sides and does not necessarily front on a dedicated public street.

12. "Cluster subdivision" means a subdivision permitting dwellings to be clustered or grouped together on smaller lots including provisions for additional open space. The resulting density shall remain the same whether or not cluster subdivisions are used.

13. "Commission" means the Zoning Commission of the City of Boone, Iowa.

14. "Common land or open space" means an area of undivided land or water, or combination thereof, which is owned jointly by all property owners of the subdivision, but not specifically assigned, planned for

passive or active recreation, pedestrian access, and the enjoyment and benefit of the owners and occupants of the individual building sites of said development.

15. "Common sewer system" means a central sewer collecting system available to each platted lot and discharged into a treatment plant, the construction and location of which is approved by the appropriate City and/or State agency, and which does not include individual septic systems.

16. "Common water system" means a central water system available to each platted lot from one single source approved by the appropriate City and/or State agency.

17. "Comprehensive development plan" means a general plan for the improvement and development of City of Boone, Iowa, as prepared by the Commission and adopted by the City Council. This document may also be referred to as the Land Use Plan.

18. "Conveyance" means an instrument filed with the County Recorder as evidence of the transfer of title of land, including any form of deed, contract or lease, excluding agricultural farm land leases.

19. "County Assessor" means the Assessor of Boone County, Iowa.

20. "County Auditor" means the County Auditor of Boone County, Iowa.

21. "County Recorder" means the County Recorder of Boone County, Iowa.

22. "County Treasurer" means the County Treasurer of Boone County, Iowa.

23. "Dedication" means a grant to the City of title to land, without compensation.

24. "Design standards and specifications" means all requirements and regulations relating to the design and layout of subdivision as set forth in this Ordinance.

25. "Developer" means the owner or an authorized agent of the land to be subdivided. Consent shall be required from the legal owner of the premises.

26. "Development Director" means the Building Official of the City of Boone, Iowa, and the individual assigned the duty to administer the ordinance by the City Council.

27. "Division" means dividing a tract or parcel of land into two (2) or more parcels of land by conveyance. The conveyance of an easement,

other than a public highway easement, shall not be considered a division for the purpose of this Ordinance.

28. "Easement" means a grant by the property owner to the public, a corporation, or persons of the use of a portion of a tract or parcel of land for a specific purpose or purposes.

29. "Easement of access" means an easement, as defined herein, designed primarily to provide access to abutting properties. An easement of access may be a private driveway which is maintained by individuals; however, for the purpose of this Ordinance, shall not be considered to be a public or private street.

30. "Final construction plans" means the maps and detailed drawings of a subdivision which show the specific location and design of improvements to be installed in the subdivision in accordance with the provisions of this Ordinance.

31. "Final plat" means the map or drawing of a subdivision in its final form which is submitted with its accompanying material to the City for approval and which, if approved, will be submitted to the County Recorder for recording.

32. "Forty-acre aliquot part" means one-quarter of one-quarter of a section.

33. "Frontage" means that portion of a tract or parcel abutting upon a street.

34. "Government lot" means a tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

35. "Grade" means the slope of a street or other surfaces, specified in percentage terms.

36. "Hard-surfaced" means PCC or ACC pavement or concrete surfacing.

37. "Improvement agreement" means a written agreement signed by an applicant and authorized agents of the City whereby the applicant agrees to undertake performance of those obligations imposed by the regulations, or agrees to undertake additional public facility improvements in exchange for such consideration of development rights as may be contained in the agreement and as authorized by the City, and containing such other terms and provisions and in such form as shall be acceptable to the City. Specifically, an improvement agreement is to be entered into after the sketch plan review but before the preliminary plat submission.

38. "Lot" means, for the purpose of this Ordinance, a tract of land represented and identified by parcel number designation on an official plat as approved by the Development Director. In no case shall a parcel of land conveyed under a lease be construed as a lot, unless said lot has been platted as a lot in an approved subdivision. The conveyance of an agricultural farmland crop lease shall not be construed as creating a parcel.

39. "Lot frontage" means that portion of a tract or parcel of land which abuts a street. Each side of a lot so abutting a public street shall be considered as a separate lot frontage. The frontage of a lot or lots shall be measured along the street right-of-way line.

40. "Lot improvements" means any building, structure, place, work of art, or other object, or improvement of land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in this Ordinance.

41. "Lot lines" means the property lines bounding a tract or parcel.

A. "Front lot line" means the lot line separating the front of the tract or parcel from the street. However, for purposes of determining tract or parcel requirements in cases where the front lot line is located within a street or highway right-of-way or easement of access, the street right-of-way line shall be used. In the case of a corner lot, that part of the tract or parcel having the narrowest frontage on any street is considered the front lot line.

B. "Rear lot line" means the lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or odd shaped tract or parcel, it means a straight line 10 feet in length which is parallel to the front lot line or its chord and intersects the two other lot lines at points most distant from the front lot line.

C. "Side lot line" means any lot line other than a front or rear lot line; a side lot line separating a tract or parcel from a front or rear lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

42. "Lot measurements" – For the purposes of this Ordinance the following lot measurements shall apply:

A. "Lot area" means the gross horizontal area within the lot lines of a lot, exclusive of any area contained within a street or highway right-of-way easement or easement of access.

B. "Lot depth" means the mean horizontal distance between the front and rear lot lines. In the case of an irregular, triangular or odd shaped lot, the depth shall be the horizontal distance between the midpoints of the front and rear lot lines.

C. "Lot width" means the horizontal distance between the side lot line as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front yard setback. In the case of a "flag" or "cul-de-sac" lot, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the front most portion of the proposed principal structure. In the case where the width of a tract or parcel is decreasing from front to rear, the horizontal distance between the side lot lines as described above shall be measured at its point of intersection with the required minimum rear yard setback.

43. "Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or an Auditor's Subdivision lot, a tract, or a parcel, the description of which has been so recorded in the Office of the County Recorder prior to the effective date of this Ordinance or has been approved by the Development Director but not yet recorded within a year of the approval.

44. "Lot types" – For the purpose of this Ordinance the following types of lots are defined:

A. "Corner lot" means a lot located at the intersection of two or more streets, having the street right-of-way abut the front and one or more side lines of the lot. A lot abutting on a curbed street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

B. "Double frontage lot" means a lot, other than a corner lot, having frontage on two or more non-intersecting streets.

C. "Flag lot" means an interior lot which is generally located behind other lots and which would be a land-locked area of land if not for a narrow strip of land, used exclusively for access purposes, connecting the area with a public street. The minimum bulk requirements for a flag lot, excluding the strip, shall be the same as required for other lots within the zoning district.

D. "Interior lot" means a lot, other than a corner lot, having frontage on only one street.

45. "Metes and bounds description" means a description of land that uses distances and angles, distances and bearings, or describes the boundaries of a parcel by reference to physical features of the land.

46. "Nonresidential subdivision" means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this Ordinance.

47. "Official plat" means a subdivision plat that meets the requirements of this Ordinance and has been approved under the terms of this Ordinance. For the purpose of this Ordinance, a subdivision plat approved under the terms of the Subdivision Regulations, effective July 1, 2008, entitled "Plats, Subdivision, Re-subdivision or Dedications" shall be considered an official plat.

48. "Owner" means the holder of legal title including holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees, and the like. Whenever a statement of ownership is required by this Ordinance, full disclosure of all legal and equitable interests in the property is required.

49. "Parcel" means a part of a tract of land.

50. "Pedestrian walkway" means a strip of land dedicated for public use which is reserved across a block for the purpose of providing pedestrian access to adjacent areas.

51. "Performance guarantee" means a contract between the City and a developer which assures that the developer will bear the cost of all required infrastructure improvements and maintenance to said improvements. This may also include a bond which includes the following: any form of security including a letter of credit, a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Council.

52. "Planned Residential Development" means a project of a single owner or a group of owners acting jointly, involving a related group of residential and commercial uses and associated uses, planned as a single land use unit rather than as an aggregation of individual activities located on separate lots. The Planned Residential Development includes usable, functional, open space for the mutual benefit of the entire tract and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so that maximum long-range benefits can be gained and the unique features of the development or site is preserved and enhanced, while still being in harmony with the surrounding neighborhood. Approval of a Planned Residential

Development does not eliminate the need of compliance with the provisions of this Ordinance.

53. "Plat" means a subdivision as it is represented by a formal document of maps or drawings, and writing.

54. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor, in accordance with Chapter 354, Code of Iowa, as amended.

55. "Preliminary plat" means a map or drawing which shows the proposed layout and construction of a subdivision and its proposed improvements in sufficient detail to indicate its workability in all respects, and which is submitted with its accompanying material to the City for approval, but is not drafted in final form for recording.

56. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement or lien interest.

57. "Protective covenants" means contracts entered into between private parties and which constitute restrictions of all private property within the subdivision for the benefit of property owners against the lessening of property values.

58. "Public improvement" means any street surface material, curbs, gutters, sidewalks, water or sewer systems, storm sewers or drainage systems, lot or street grading, street lighting, street signs, plantings or other items constructed for the welfare of the property owners and the public which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for maintenance and operation, or which may affect an improvement for which City responsibility is established. All such improvements shall be properly bonded.

59. "Quarter-quarter section" means the northeast, northwest, southeast or southwest quarter of a quarter section delineated by the United States Government system of land survey and which is approximately forty (40) acres in size.

60. "Registered engineer" means a registered engineer authorized and licensed by the State of Iowa.

61. "Registered land surveyor" means an Iowa registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B, Code of Iowa, as amended.

62. "Repeat offense" means a recurring violation of the same section of the City of Boone, Iowa, Subdivision Ordinance.

63. "Re-subdivision/replat" means any subdivision of land which has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land. Re-subdivision/replats shall follow the same procedure as set forth for a minor or major subdivision, whichever may be applicable.

64. "Right-of-way" means the land area, the right to possession of which is secured or reserved for public purposes.

65. "Sketch plan" means a freehand sketch drawing which depicts the proposed division of a tract of land, which meets the requirements of this Ordinance.

66. "Soil Conservation District" means the Soil Conservation District Offices for City of Boone, Iowa.

67. "Street" means a public way designed and used for passage of vehicles. "Street" does not include any alleys or highways.

68. "Street classification" – All streets shall be classified as one or more of the following, in accordance with the adopted street classification map:

A. "Public street, hard-surfaced" means a street which has a full-depth surfacing consisting of PCC or ACC constructed in accordance with appropriate City regulations.

B. "Streets, arterial" means those streets which provide for a rapid movement of concentrated volumes of traffic over relatively long distances, including:

(1) Freeways and Expressways. Streets or highways which include the major interstate and interregional traffic corridors and provide the highest mobility level and a high degree of access control.

(2) Principal Arterial. A street intended for the movement of traffic to and from major traffic generators such as the Downtown or Highway Business areas, the University area, major industrial areas, or as a route for traffic between communities and that accommodates a high degree of mobility with a high degree of access control.

(3) Minor Arterials. Streets intended to collect and distribute traffic in a manner that is designed to serve low

intensity traffic generating areas such as neighborhood commercial areas, education facilities, churches or designed to carry traffic from collector streets to principal arterials with a high degree of access control.

C. "Street, collector" means a street intended to move traffic from local streets to arterial streets. These streets provide for movement at moderate speeds and provide a direct route between activity centers with a lesser degree of access control than arterial streets.

D. "Street, local" means a street designed for low speeds and low intensity traffic volumes intended to provide access to private property, and also to move traffic to and from low generating areas to collector and arterial streets.

E. "Cul-de-sac" means a local street closed at one end with a turn-around.

F. "Dead end" means a local street with only one vehicular traffic outlet.

G. "Frontage road" means a local street that parallels and is adjacent to an arterial street, and that is separated from the through traffic on the arterial street.

69. "Street right-of-way line" means the boundary line of a street.

70. "Subdivision" means the division of land on or after July 1, 2008, into two (2) or more lots, parcels, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, building development or lease. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdividing or the land subdivided.

A. "Major subdivision" means all subdivisions not classified as either a property line adjustment, property split, or minor subdivision, including but not limited to any size subdivision requiring new streets, or the extension of any public facilities, or the creation of any public improvements.

B. "Minor subdivision" means a subdivision of land which meets the following criteria:

(1) All new lots shall front on and have direct access from an existing public street which meet minimum design standards.

(2) All new parcels proposed to incorporate new access points to a public road shall first have access approval from the City Engineer.

(3) No new public street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.

(4) No more than five parcels shall be created. The creation of more than five lots and/or parcels shall require the platting of a major subdivision.

(5) No new lot shall conflict with any provisions or portion of the City Zoning Ordinance or this Ordinance.

C. "Property split" means a subdivision of a tract which meets the following criteria:

(1) No more than two parcels are created.

(2) No new parcel shall conflict with any provision or portion of the City Zoning Ordinance or this Ordinance.

D. "Property line adjustment" means a subdivision of one or more lots or parcels which meets the following criteria:

(1) No additional lots or parcels shall be created.

(2) No part of the divided lot or parcel of land will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred.

(3) No new lot or parcel shall conflict with any provision or portion of the City Zoning Ordinance or this Ordinance.

71. "Subdivision plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number designation for each lot within the plat and a succinct name or title that is unique for the City, as approved by the County Auditor, and which meets the requirements of the Ordinance and has been approved in accordance with this Ordinance.

72. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

73. "Vacate" or "vacation" means to make void or annul.

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177.10 SKETCH PLANS.

1. Pre-Application Conference.

A. Purpose. The purposes of the pre-application conference are: (i) to inform City staff of a possible future subdivision; (ii) to facilitate City staff review of the effect and feasibility of a proposed subdivision in relation to the City's existing and proposed infrastructure systems; and (iii) to inform the applicant of the requirements of the regulations.

B. Procedure.

(1) The applicant shall request a pre-application conference with the Development Director. The Development Director will invite all other appropriate staff.

(2) The applicant shall submit three copies of a sketch plan for the area of land proposed to be subdivided five days prior to the pre-application conference.

C. Sketch Plan Contents. A sketch plan shall contain, at a minimum, the information set forth below.

(1) The name of the proposed subdivision;

(2) The name, address and other pertinent information about the property owner, the applicant, or other preparer of the sketch plan;

(3) A north arrow and the preparation or submission date;

(4) The general location, areas and dimensions of any lots to be platted by the proposed subdivision;

(5) The general location, width and dimensions of any highways, streets, alleys, and other ways existing or proposed to be reserved or dedicated for public use on or abutting the area of land proposed to be subdivided;

(6) The general location of any existing or proposed public infrastructure including water mains, sanitary sewer mains, storm sewer mains, and facilities and other infrastructure (including, but not limited to gas, cable, phone, and electricity); and

(7) The location, width and character of all existing or proposed utility easements on or abutting the area of land proposed to be subdivided.

D. Sketch Plan Review and Comments.

(1) The appropriate City staff shall review and comment upon the sketch plan, taking into consideration the requirements of the regulations and the best use of the tract or parcel proposed to be subdivided and giving particular attention to the following:

a. the location and layout of any proposed streets or other public ways;

b. the arrangement and size of any lots to be platted by the proposed subdivision;

c. the layout of any proposed public infrastructure;

d. the pattern of surface water drainage on the area of land proposed to be subdivided; and

e. the potential for any additional development of abutting lots, or areas of land.

(2) Neither the developer nor the City shall be bound by any comments, recommendations, determinations or decisions of City staff offered or made during the pre-application conference.

E. Classification of Subdivisions. The Development Director shall issue a written determination as to the classification of a proposed subdivision within 20 days of the conclusion of the pre-application conference process. All subdivisions will be classified according to §177.09(70).

2. Discussion of Requirements. Before preparing a sketch plan, the developer should discuss with the Development Director the requirements and procedure for approval of a property line adjustment, property split, or minor or major subdivision. The Development Director shall also advise the developer, where appropriate, to discuss the proposal with those officials who must eventually approve these aspects of the subdivision coming within their jurisdiction.

3. Application for Land Division Approval. An application for land division approval shall be filed, upon the form provided, with the Development Director. The application shall be accompanied by a fee,

as specified in Section 177.16, and by such additional information and documentation as prescribed by the Development Director. The application shall contain the following information and documentation:

A. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner.

B. The three proposed names of the subdivision, in order of preference, for approval by the Development Director, or the name of the property owner, if no subdivision name has been chosen.

C. The street address or general location and legal description of the subject property.

D. The present and proposed uses and zoning district classification of the subject property.

E. A copy of any existing protective covenants or deed restrictions on the subject property.

F. A statement of any existing easements affecting the subject property.

G. A statement of preliminary proposals for providing water supply, sanitary sewage treatment, utilities, storm water drainage and other improvements.

H. Two copies of the sketch plan as described in subsection 4 below.

I. A statement by the person preparing the application attesting to the truth and correctness of all information and documentation presented with the application.

4. Contents of the Sketch Plan. A sketch plan shall contain the following information at a minimum:

A. The name of the proposed subdivision;

B. The name, address and other pertinent information about the property owner, the applicant, or other preparer of the sketch plan;

C. A north arrow and the preparation or submission date;

D. The general location, areas and dimensions of any lots to be platted by the proposed subdivision;

E. The general location, width and dimensions of any highways, streets, alleys, and other ways existing or proposed to

be reserved or dedicated for public use on or abutting the area of land proposed to be subdivided;

F. The general location of any existing or proposed public infrastructure including water mains, sanitary sewer mains, storm sewer mains, and facilities and other infrastructure; and

G. The location, width and character of all existing or proposed utility easements on or abutting the area of land proposed to be subdivided.

5. Review of Sketch Plan. The Development Director shall review the application and determine the appropriate subdivision classification for the sketch plan. The developer shall confer with the Development Director and the City Engineer to develop a mutually acceptable sketch plan for a major subdivision.

6. Sketch Plan Approval of a Property Line Adjustment. Following such review of the sketch plan for a property line adjustment, the Development Director shall either approve the sketch plan with or without specified conditions, to be accepted by the developer as a condition of such approval or disapprove the sketch plan. The Development Director shall notify, in writing, the developer of his/her decision.

A. Approval of the sketch plan shall signify the general acceptability of the proposed property line adjustment with respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance and shall be deemed to be authorization to proceed with preparation of necessary instruments for conveyance of a portion of one lot or parcel to the owner of an adjoining lot or parcel. A plat of survey shall be prepared for the division. One copy of the plat of survey shall be prepared by an Iowa registered land surveyor and filed with the Development Director and reviewed and approved by the Development Director before final approval may be given on the land division application. A copy of said decision shall be recorded simultaneously with any and all instruments filed with the County Recorder which transfer the ownership of said property being divided. Such instruments shall contain a deed restriction requiring the portion of land described in the plat of survey be transferred with the adjoining tract or parcel to which it is being added as if it were a single parcel. A copy of such instrument shall be submitted for review by the Development Director prior to being recorded to insure that said deed restriction is included.

B. Disapproval of the sketch plan shall signify the general unacceptability of the proposed property line adjustment with respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Development Director to the City Council for final determination.

7. Sketch Plan Approval of a Property Split. Following such review of the sketch plan for a property tract split, the Development Director shall either approve the sketch plan with or without specified conditions to be accepted by the developer as a condition of such approval or disapprove the sketch plan. The Development Director shall notify, in writing, the developer of his/her decision:

A. Approval of the sketch plan shall signify the general acceptability of the proposed property split with respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance. A plat of survey shall be prepared as follows:

(1) In the event a forty-acre aliquot part is proposed to be divided into two parcels, it shall be required that only the parcel being conveyed have a plat of survey prepared of it. However, as allowed by Code of Iowa, Section 354.4, at the discretion of the County Auditor, an order may be given to require both parcels to have a plat of survey prepared of them. In the event only the parcel being conveyed has a plat of survey prepared, the decision on the land division application shall be conditional upon no further divisions taking place in that forty-acre aliquot part until such time as all parcels in said forty-acre aliquot part have had a plat of survey prepared of them. In the event a forty-acre aliquot part is proposed to be divided into two parcels simultaneously, it shall be required that both parcels in that forty-acre aliquot part have a plat of survey prepared of them.

(2) In the event a forty-acre aliquot part was divided into two parcels prior to January 1, 2008, and it is proposed that one of the two parcels be divided into two parcels, resulting in no more than three parcels within the boundaries of the forty-acre aliquot part, only the two new parcels shall be required to have a plat of survey prepared of them.

(3) In the event a forty-acre aliquot part was divided into two parcels after January 1, 2008, and it is proposed

that one of the two parcels be divided into two parcels, neither parcel shall be able to be divided unless a plat of survey has been prepared of all parcels located in said forty-acre aliquot part.

(4) One copy of the plat of survey shall be prepared by an Iowa registered land surveyor and filed with the Development Director before final approval may be given on the land division application. A copy of said decision shall be recorded simultaneously with any and all instruments filed with the County Recorder which transfer the ownership of said property being divided.

B. Disapproval of the sketch plan shall signify the general unacceptability of the proposed property split with respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Development Director to the Commission for final determination.

8. Effective Period of Sketch Plan for a Property Split or Property Line Adjustment. Within one year from the day the Development Director approves a land division application for a property split or a property line adjustment, the developer shall cause the approved deed and approved land division application to have been recorded in the Office of the County Recorder. If the developer fails to record said instruments within the appropriate time period, the land division application shall be void.

9. Sketch Plan Approval of a Minor or Major Subdivision. Following such review of a sketch plan for a minor or major subdivision, the Development Director shall either approve the sketch plan with or without specified conditions to be accepted by the developer as a condition of such approval or disapprove the sketch plan. The Development Director shall notify, in writing, the developer of his/her decision.

A. Approval of the sketch plan shall signify the general acceptability of the proposed minor or major subdivision with respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance and shall be deemed to be authorization to proceed with the preparation of a preliminary plat as described in Section 177.11.

B. Disapproval of the sketch plan shall signify the general unacceptability of the proposed minor or major subdivision with

respect to compliance with the requirements of the City Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Development Director to the Commission for final determination.

10. National Pollution Discharge Elimination System (NPDES) Permit. An application for a land division for a property split, involving disturbing of one or more acres or more during construction activity, shall not be approved unless it includes a copy of an approved NPDES Permit issued by the Iowa Department of Natural Resources.

177.11 PRELIMINARY PLAT.

1. Application for Preliminary Plat Approval. An application for preliminary plat approval shall be filed, upon the form provided, with the Development Director for submission to the Commission. The application shall be accompanied by a fee, as specified in Section 177.16. The application shall contain the following information and documentation:

A. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner.

B. The names, addresses and telephone numbers of all professional consultants advising the developer with respect to the proposed subdivision.

C. The three proposed names of the subdivision, in order of preference, for approval by the County Auditor.

D. The street address or general location and legal description of the subject property.

E. The present and proposed zoning district classification of the subject property.

F. The existing and proposed uses of the subject property.

G. A statement of any protective covenants or deed restrictions, in outline form, which are proposed to be recorded with the final plat.

H. A statement of proposed method of water supply, sanitary sewage treatment and disposal of storm waters from the subject property.

I. A statement of the manner in which it is proposed to finance improvements.

J. A statement of the general nature and type of improvements proposed for the subdivision, and in what manner the developer intends to provide for their installation, (e.g., actual construction, monetary guarantee, etc.). The approximate time that such improvements will be completed shall be indicated.

K. Two blackline/blueline print copies of the preliminary plat as described in §177.11(2), along with a digital copy in Adobe Acrobat (PDF) file format.

L. Two blackline/blueline print copies of the plans showing the typical cross sections and centerline profiles, with approximate grades, of all proposed public or private streets.

M. A statement by the person or persons preparing the application attesting to the truth and correctness of all information and documentation presented with the application.

2. Contents of the Preliminary Plat. The preliminary plat shall be prepared by a registered engineer or registered land surveyor at a convenient scale of not less than one inch equals 100 feet; provided, however, those areas of more than 100 acres may be at a scale of one inch equals 200 feet or other allowable scales as allowed by the Director. The preliminary plat shall show the following:

A. The approved name or three proposed names, in order of preference, for approval by the Development Director, of the proposed subdivision and an identification clearly stating that the document is a preliminary plat.

B. The date of the document, approximate true north point and the scale of the document.

C. The names and addresses of the owner of the land, the developer, if other than the owner, and the registered engineer and/or registered land surveyor who prepared the preliminary plat.

D. A description of the subject property, giving the location and dimensions of all boundary lines to be expressed in feet and decimals of a foot, with reference to section or quarter section lines.

E. The following existing conditions shall be shown on the preliminary plat:

(1) The location, right-of-way width, surfacing width and names of all existing streets and easements of access, railroad right-of-ways, drainage ditch easements, and

utility easements within the subdivision and within 200 feet thereof.

(2) The location of any existing permanent buildings within the proposed subdivision and existing buildings in projected alignment of any proposed public or private streets outside of the proposed subdivision and within 200 feet thereof.

(3) The location of pertinent features such as water bodies, wetlands, wooded areas, isolated preservable trees, rock outcroppings, parks, cemeteries, bridges and other permanent structures.

(4) The location of all existing drainage district tile, sanitary and storm sewers, culverts, water mains, gas lines and other underground installations within or immediately adjacent to the proposed subdivision.

(5) The location of water courses, drainage ditches and areas subject to flooding. Proposed subdivisions located within areas subject to flooding shall include a line depicting the boundary of 100-year flood as shown in the City of Boone, Iowa, Flood Plain Study prepared by the Federal Emergency Management Agency.

(6) For areas affected by construction or proposed building sites, contour lines or spot elevations related to some established benchmark by the City and having the following intervals, for major subdivisions and minor subdivisions:

a. two-foot contour intervals;

b. spot elevations where the ground is too flat for contours.

(7) The location, elevation and descriptions of the bench mark controlling the survey.

F. The following information with respect to the manner in which the subject property is to be developed shall be included on the preliminary plat:

(1) The location, dimensions, identification number and lot area of all proposed lots.

(2) The location, right-of-way width, surfacing width and names of all proposed public streets.

(3) The location, width and purpose of all proposed easements, including well, drainage, and septic corridors if applicable.

(4) The location and type of all proposed utilities.

(5) The location, dimensions and area of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.

(6) The location and width of all proposed building setback lines.

(7) Indication of the use of all proposed lots, if other than single-family dwellings.

(8) A vicinity map adequately covering the area within one-half mile radius of the proposed subdivision, at a scale of not less than one inch equals 2,000 feet, showing the relation of the plat to the surrounding properties, streets, parks, schools and major commercial or industrial developments, and the boundary of the drainage area affecting the plat.

3. Application Acceptance. The application shall be considered as officially filed after it has been examined by the Development Director and found to contain the information and documentation essential for proper review. Lack of complete information and documentation shall be deemed cause for refusal of official filing. The Development Director will establish deadlines for submittal. All submittals must meet those established deadlines.

4. Distribution of Preliminary Plat. The Development Director shall transmit copies of the preliminary plat to the City Engineer, Public Works Director, Fire Chief and Police Chief, and such other official body or agency as may be deemed necessary by the Development Director. In addition to a copy of the preliminary plat, two copies of the typical cross sections of the streets shall be transmitted to the City Engineer.

5. Review of Preliminary Plat. Comments and recommendations shall be filed with the Development Director as soon as practical, but normally within five working days. The Development Director may request a staff review meeting. Copies of the Development Director's comments and recommendations as well as those of the responding individuals and agencies shall be submitted to the Commission.

6. National Pollution Discharge Elimination System (NPDES) Permit. The preliminary plat shall not be approved unless it includes a copy of an approved NPDES Permit issued by the Iowa Department of Natural Resources for a parcel involving disturbing of one or more acres or more during construction activity.

7. Commission Recommendation. After reviewing the preliminary plat and documents, the Commission shall transmit to the City Council its written recommendation. The Commission may recommend that the preliminary plat be approved; or it may recommend that the preliminary plat be approved with specified conditions; or it may recommend that the preliminary plat be disapproved. Exception: Minor subdivision preliminary plats shall proceed directly to City Council.

8. City Council Action. The City Council shall consider the Commission's recommendation and shall either disapprove the preliminary plat; shall refer it back to the Commission for further consideration of specified matters; or shall, by resolution, approve the preliminary plat, with or without specified conditions to be accepted by the developer as a condition of such approval. Adoption of such a resolution shall require an affirmative vote of at least a majority of those voting.

9. Record of Approval. Any resolution adopted by the City Council approving a preliminary plat shall be given an official resolution number and shall be published in the minutes of proceedings of the City Council. Following City Council action, the Development Director shall notify, in writing, the developer of the City Council's decision.

10. Effect of Approval of Preliminary Plat: Approval of the preliminary plat shall not constitute final acceptance of the subdivision by the City Council, but shall signify merely the general acceptability of the proposed subdivision. Such approval shall be deemed to be authorization to proceed with the preparation of the final construction plans and the final plat.

11. Effective Period of Preliminary Plat Approval. Within one year from the day the City Council approves a preliminary plat, the developer shall apply for final plat approval, or the first part thereof if phased. If the developer fails to apply for final plat approval within the appropriate time period, the preliminary plat shall be void unless the developer requests an extension of time prior to the date originally required for submission of the final plat.

12. Extension of Time Limitations. The City Council may grant an extension of time of not more than two years from the date required for

submission of a final plat. A developer may apply only once for an extension of time. If the City Council refuses to grant an extension of time, the developer shall apply for approval of the final plat, to the City Council within the appropriate time originally required or 60 days from the day the extension request is denied by the City Council.

177.12 FINAL CONSTRUCTION PLAN AND INSPECTION OF IMPROVEMENTS.

1. Required Improvements. Upon City Council approval of a preliminary plat and prior to application for final plat approval, the developer shall:

A. Construct and install the required improvements; or

B. Post a performance guarantee for the total cost of the improvements; or

C. Construct and install a portion of the improvements and post a performance guarantee for the remainder of the improvements not completed.

2. Submission of the Final Construction Plans. The developer shall have a registered engineer prepare the final construction plans for the proposed required improvements containing the data and information specified in paragraph B of this subsection. Four blackline/blueline print copies of such plans shall be certified by a registered engineer, and shall be submitted to the City Engineer in the following manner. The plans shall be accompanied by a fee as specified in Section 177.16.

A. In the event the developer chooses to construct and install the required improvements, as specified in subsection 1 of this section, said final constructions plans shall be submitted to the City Engineer at least 60 calendar days prior to the date when the construction will commence.

B. In the event the developer chooses to post a performance guarantee for the total cost of the required improvements, as specified in §(1)(B) of this section, said final construction plans shall be submitted to the City Engineer at least 60 calendar days prior to the date when the final plat is submitted for approval. Said final construction plans, upon submittal to the City Engineer, shall be accompanied by a detailed engineering estimate of cost for all improvements, estimated and certified by the developer's registered engineer. These estimates will be utilized by the City Engineer for review and determination of the amount of the performance guarantee. The amount of the performance

guarantee shall not be less than the estimated cost of the improvements and the amount of the estimate must be approved by the City Engineer.

C. In the event the developer chooses to construct and install a portion of the required improvements and post a performance guarantee for the remainder of the improvements not completed, as specified in §(1)(C) above, said final construction plans shall be submitted to the City Engineer at least 60 calendar days prior to the date when the construction will commence. At the time of the submittal of the plans, the developer shall notify the City Engineer of his/her intent to post a performance guarantee for remaining improvements and shall submit the cost estimates for the remaining portion, as specified in paragraph B above.

D. In the event one year has lapsed since the issuance of the performance guarantee and construction of the required improvements has not been completed, it shall be the responsibility of the developer to resubmit the detailed engineering estimates of cost and a new performance guarantee as required in §(1)(B) above.

3. Contents of Final Construction Plans. The final construction plans for required lot or public improvements shall contain the following data and information.

A. Plans, details, specifications and cost estimates for street and sidewalk construction, profiles indicating existing topography and elevation, curb and sidewalk elevations, intersection control elevations, and paving geometrics for each street with a typical cross section. The profiles of grade lines shall be shown to a scale of not less than one inch equals 100 feet horizontal, and one inch equals 10 feet vertical. This information shall be shown on standard plan and profile sheets unless otherwise required by the City Engineer.

B. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.

C. Plans, profiles, details, specifications and cost estimates of proposed water distribution systems, water supply facilities and water hydrants, if any.

D. Plans, profiles, details, specifications and cost estimates of proposed sanitary sewer.

E. Grading plans for all lots and other sites within the subdivision, including details and specifications for soil erosion and sedimentation control.

F. When unusual site conditions exists, the City Engineer may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.

G. All plans shall be based on U.S.G.S. datum for vertical control, where feasible; where U.S.G.S. datum is not feasible, a datum plan may be assumed provided it is monumented with a minimum of three permanent benchmarks for vertical control.

H. All plans for underground utilities shall be prepared by or at the direction of the utility company involved.

4. Review of Final Construction. The City Engineer shall transmit a copy of the final construction plans to the Development Director for review and comments. The City Engineer shall review the final construction plans in order to determine whether such plans are consistent with the approved preliminary plat and comply with the design standards and specifications described in Section 177.14. If such plans are consistent and do comply, the City Engineer shall submit a notice to the Development Director that they so conform and comply, and shall return one signed copy of the approved final construction plans to the developer. In the event that such plans do not conform and comply, the City Engineer shall notify the developer of the specific manner in which plans do not conform or comply, and the developer may then correct such plans. If such plans are not corrected, the City Engineer shall transmit a notice to the Development Director as to the items of nonconformity or noncompliance.

5. Construction of Improvements. No improvements shall be constructed nor shall any work preliminary thereto be done until such time as the final construction plans shall have been approved by the City Engineer.

6. Inspection. It is the responsibility of the developer to oversee the construction operations of the required improvements to assure that the work performed is in accordance with the final construction plans. Therefore the developer shall provide:

A. Construction inspection reports submitted by a qualified inspector are required.

B. Quality control testing shall be performed by the developer and the results submitted to the City Engineer.

7. *RESERVED*.

8. Final Inspection. Upon completion of all improvements within the area covered by the final plat, the developer shall notify the City Engineer, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in any such improvements as installed, or if there are any deviations in such improvements as installed from the final construction plans, the City Engineer shall notify, in writing, the developer of such defects, deficiencies or deviations and the developer shall, at his sole cost and expense, correct such defects, deficiencies or deviations within six months of the date of notification. When such defects, deficiencies or deviations have been corrected, the developer shall again notify the City Engineer that the improvements are again ready for final inspection.

9. Acceptance of Improvements. Prior to acceptance of the required improvements by the City Engineer, the developer shall provide:

A. A certification by the developer's registered engineer that the work was completed in accordance with plans and specifications and meets all applicable City standards.

B. One set of "as-built" plans two blackline/blueline print copies will be required to be submitted to the City Engineer prior to approval of the completed construction of the required improvements.

C. A digital version of the "as-built" plans in a format compatible with CAD or ESRI products with a datum of State Plane Coordinates - NAD 83 North (feet).

10. Report to City Council. If a final inspection indicates that all improvements as installed contain no defects, deficiencies or deviations, the City Engineer shall certify to the City Council that all improvements have been installed in conformity with the final construction plans. The receipt of such notification by the City Council shall constitute the date on which the two-year period specified in §177.12(11) shall commence.

11. Maintenance Bond. The developer shall warrant the design, materials and workmanship of all required improvements, installations and construction for a period of three years from and after completion. Such warranty shall be by a bond or other acceptable collateral, which shall assure the expedient repair or replacement of defective improvements under warranty and shall indemnify the City from all costs or losses resulting from or contributed to such defective improvements.

177.13 FINAL PLAT.

1. Application for Final Plat Approval. Following the approval of the preliminary plat in the case of a minor subdivision, or of the preliminary plat and final construction plans in the case of a major subdivision, the developer, if he or she wishes to proceed with the subdivision, shall file, upon the form provided, an application for final plat approval with the Development Director for submission to the City Council. The application shall be accompanied by a fee as specified in Section 177.16. The application shall contain the following information and documentation:

A. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner.

B. The names, addresses and telephone numbers of all professional consultants advising the developer with respect to the subdivision.

C. The certificate of approved name of the subdivision.

D. A copy of any protective covenants or deed restrictions affecting the subdivision.

E. The performance guarantee, if required, as described in Section 177.12. If the required improvements have been completed in lieu of a performance guarantee, then a certificate signed by the City Engineer approving the installation of any required improvements.

F. Copies of the final plat of the following types and sizes, all of which shall bear the original signatures on the required certificates.

(1) Two blackline/blueline print copies of the final plat, at a size of not less than 18″ x 24″.

(2) A digital copy in Adobe Acrobat (PDF) file format.

G. A statement from the mortgage holders or lienholders, if any, as required by Section 354.11, Code of Iowa, as amended.

H. An opinion by an attorney-at-law, as required by Section 354.11, Code of Iowa, as amended.

I. A certificate to be signed by the County Treasurer, as required by Section 354.11, Code of Iowa, as amended.

J. Such other and further information as the City Council may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

K. A statement by the person preparing the application attesting to the truth and correctness of all information and documentation presented with the application.

2. Contents of the Final Plat. The final plat shall be prepared by a registered land surveyor at a convenient scale of not less than one inch equals 100 feet. The final plat shall show the following:

A. The approved name of the subdivision.

B. The date of the document, approximate true north arrow and the scale of the plat. The scale shall be clearly stated and graphically illustrated by a bar scale on each plat sheet.

C. The names and addresses of the owner of the land, the developer, if other than the owner, and the engineering firm or surveying firm that prepared the final plat.

D. The location by section, township, range, City and state and including descriptive boundaries of the subdivision, based on accurate traverse, giving annular and linear dimensions which must mathematically close.

E. The exact location and layout of lots, public or private streets with accurate dimensions in feet and decimals of feet, interior angles, length and radii, arcs and intermediate tangents of all curves, and with all other information necessary to reproduce the plat on the ground.

F. The location of all existing and new streets within the subdivision.

G. The names and width of all existing and new streets within the subdivision.

H. The lot number and area of each lot within the subdivision. The data on the area of each lot may be shown in a table format on the plat page on which said lot is drawn.

I. The location of all easements shall be denoted by fine dashed lines, clearly identified, and if already on record, the recorded reference of such easement. If an easement is not definitely located on record, a statement of such easement shall be included. The width of the easements, with sufficient ties to locate it definitely with respect to the subdivision must be shown. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certification of identification.

J. The recorded reference of any protective covenants or deed restrictions affecting the subdivision shall be shown as a notation on the final plat.

K. A statement by the proprietors and their spouse, if any, as required by Chapter 354.11, Code of Iowa, as amended.

L. Subdivisions within the 2-mile limit: a statement by the property owner, to be attached to the abstract, indicating that any portion of the subdivision may be annexed by the City of Boone and that this statement shall serve as notification of acceptance that approval of this subdivision is contingent upon agreement to future annexation.

M. A certificate signed by a registered land surveyor, as required by Chapter 355, Code of Iowa.

N. A certificate to be signed by the Development Director approving the final plat with respect to compliance with the requirements of the City Zoning Ordinance.

O. A certificate to be signed by the City Engineer approving the final plat with respect to public improvements, if any.

P. A certificate for approval of the City Council to be signed by the Mayor and attested by the City Clerk.

3. Application Acceptance. The application shall be considered as officially filed after it has been examined by the Development Director and found to contain the information and documentation essential for proper review. Lack of complete information and documentation shall be deemed cause for refusal of official filing. The Development Director will establish deadlines for submittal. All submittals must meet those established deadlines.

4. Review of Final Plat. The Development Director shall transmit copies of the final plat to the City Engineer. Copies of the Development Director's comments and recommendations, as well as those of the City Engineer, shall be submitted to the City Council.

5. Public Meeting by City Council. The City Council shall consider the proposed final plat at a public meeting. Notice of the public meeting shall be given as specified in Chapter 21, Code of Iowa, as amended.

6. City Council Action. The City Council shall, within 60 days from the date of application acceptance for final plat approval, either disapprove the final plat or shall, by resolution, approve the final plat and accept the dedication of all streets, easements, parks and other public grounds for public use. Adoption of a resolution shall require an affirmative vote of at least a majority of those voting.

7. Record of Approval. Any resolution adopted by the City Council approving a final plat shall be given an official resolution number and shall be spread in the minutes of proceedings of the City Council.

A. The Development Director shall notify, in writing, the developer of the City Council's decision.

B. If the final plat is approved by the City Council, the Development Director, after having retained one blackline/ blueline print copy shall return all other originals to the developer, who shall retain one print copy and distribute the others as follows:

(1) One print copy, at a size of not less than 18″ x 24″, to the City Engineer.

(2) One print copy, at a size of not less than 18″ x 24″, to the County Recorder, to be recorded in accordance with the provisions of Chapter 354, Code of Iowa.

(3) A digital version of the final plat in a format compatible with CAD or ESRI products with a datum of State Plane Coordinates - NAD 83 North (feet).

8. Recording Final Plat. Approval of the final plat by the City Council shall be null and void if the final plat is not recorded with the County Recorder within 90 days after the date of approval, unless an extension is requested by the developer within that time and granted by the City Council.

9. Failure to Construct Required Improvements. In the event a developer has posted a performance guarantee in lieu of actual construction of required improvements, the City Council may, 30 days prior to the expiration of the performance guarantee, review the development of the subdivision and may direct the City Engineer to proceed to execute the performance guarantee in order to assure that the required improvements are completed.

177.14 DESIGN STANDARDS.

1. Conformance to Applicable Rules and Regulations. No subdivision shall be approved and accepted by the City unless it conforms to the minimum requirements contained herein. In addition to these requirements, all subdivisions shall comply with the following:

A. The City Zoning Ordinance and all other applicable laws, rules and regulations of the appropriate local jurisdictions.

B. The Comprehensive Plan and all other applicable plans adopted by the City.

C. All applicable standards established and regulations adopted by the City.

D. All applicable laws, rules and regulations of the State and its duly constituted agencies.

E. Approval may be withheld if a subdivision is not in conformity with the above laws, rules and regulations, and the purposes of this Ordinance, as established in §177.01(2).

2. Land Suitability. No land shall be subdivided which is found to be unsuitable for development by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other features likely to be harmful to the health, safety or general welfare of the future residents of the subdivision or the residents of the City, until such time as conditions causing the unsuitability are corrected. The following general standards shall apply: The City Council, in applying the provisions of this section, shall in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the developer the opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the City Council may affirm, modify or withdraw its determination of unsuitability.

3. Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern of the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

4. Water Bodies and Watercourses. If the tract being subdivided contains a water body, or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among the fees of adjacent lots. The City Council may approve an alternate plan whereby the ownership of and responsibility for the safe maintenance of the water

body is so placed that it will not become a City responsibility. None of the land which is under water shall be utilized to meet the minimum area of the lot required under the City Zoning Ordinance. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for the installation of a culvert or other structure, in accordance with standards and specifications approved by the City Engineer.

5. Two-Mile Limit; Urban Service Area. Developments occurring outside corporate limits but within the Urban Service Area, established in the Boone Comprehensive Plan, shall make accommodations for urban services according to this Ordinance. This shall not serve as a requirement that full urban services be installed but rather accommodation of easements, rights-of-way, and annexation agreements.

6. Lots. The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing zoning permits to build on all lots in compliance with the City Zoning Ordinance and in providing driveway access to buildings on such lots from an approved street.

A. The lot size, width, depth, shape and orientation, and the minimum front yard setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall comply with the minimum standards of the City Zoning Ordinance.

B. Dimensions of corner lots shall be large enough to allow for the erection of buildings, observing the minimum front yard setback from both streets.

C. *RESERVED*.

D. Where lots are more than double the minimum required area for the zoning district, the City Council may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the City Zoning Ordinance and the provisions of this Ordinance. Commission and City Council approval shall be required for any property line adjustment or parcel split which takes place on lots platted after the effective date of this Ordinance. The Commission may require that a resubdivision/replat be prepared in lieu of a property line adjustment or parcel split.

E. Depth and width of lots reserved or laid out for commercial or industrial purposes shall be adequate to provide for off-street parking and loading facilities required for the type of use and development contemplated, as established in the City Zoning Ordinance.

F. Every lot shall abut and have access to a public street.

G. In general, side lot lines shall be at right angles to street lines, or radial to curving street lines, unless a variation from this requirement will give a better street or lot layout.

H. Double frontage and reverse frontage lots shall be avoided except where necessary to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography and orientation.

7. Frontage Required. All major subdivisions shall be in areas in which the property lies immediately adjacent to or has direct access from a hard surfaced public street. In the event the subdivision is proposed to be developed as a major subdivision, the interior streets shall be developed as stipulated in subsections 8 and 9 of this section. In the event the proposed subdivision is situated on an existing graveled public street, it shall be the developer's responsibility to have a hard surfaced public street constructed from the subdivision entrance road(s) or from the subdivision frontage to another hard surfaced public street.

8. Street Layout and Design. The arrangement, character, extent, width, grade and location of all streets shall be designed with consideration of and in relationship to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of land to be served by such streets. The layout and design of streets in all subdivisions shall conform to the following:

A. Streets shall provide, where practical, for the continuation or appropriate projection of existing streets in the surrounding area.

B. Streets shall be related appropriately to the topography. Local streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, at or above, the grade of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

C. Streets shall be properly related to special traffic generators such as industries, business districts, schools, churches,

and shopping centers; to population densities; and to the pattern of existing and proposed uses.

D. Local streets shall be laid out to conform as much as possible to the topography, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access of property.

E. The rigid rectangular gridiron street pattern should be avoided wherever possible and the use of curvilinear streets, cul-de-sacs, or loop streets shall be encouraged where such use will result in a more desirable layout.

F. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by the topography or other physical conditions, or unless in the opinion of the City Council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

G. In nonresidential subdivisions, the streets and other access-ways shall be planned in connection with the grouping of buildings, location of rail facilities, truck loading and maneuvering areas, walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

9. Street Standards. Street standards including, but not limited to, right-of-way widths, grades, sight distances, vertical curve length, and pavement type, width and thickness, shall be based upon standards equal or greater than current Iowa Statewide Urban Design and Specification (SUDAS) Standards. Hydraulic design of drainage facilities shall meet or exceed the minimum requirements currently utilized by the City Engineer.

A. Dedication of additional right-of-way shall be required for any subdivision having frontage on an existing street which does not meet with the minimum right-of-way width required by the City Engineer.

B. All major and minor subdivisions shall meet Minimum Street Standards according to SUDAS.

C. Dead-end streets, designed to be so temporarily, shall extend to the property line. A temporary “T” shaped turnaround shall be provided on all temporary dead-end streets, with the notation on the final plat that the land outside of the normal street

right-of-way shall revert to abutting landowners whenever the street is continued.

D. All pavements shall meet or exceed minimum smoothness standards based on current Iowa Department of Transportation specifications, as stipulated in Section 2316.02-Measurements; 2316.03-Evaluation; and Section 2532-Pavement Surface Repair (Diamond Grinding). Final profile index shall not exceed 20 inches per mile or the current metric equivalent adopted by the Iowa Department of Transportation. All costs incurred to test for assurance that the minimum smoothness standards have been met shall be the responsibility of the developer.

E. Bump correction or smoothness correction or both may be required. If required, the correction shall be completed before the final determination of pavement thickness. All bumps exceeding a vertical height of five-tenths (0.5) inch in a 25-foot span, as indicated on the profile trace, shall be corrected. Corrections will also be required, in lengths excluded from the profilogram, for deviations exceeding one-eighth (1/8) inch in 10 feet. However, on asphalt pavements the surface shall be corrected only with approval of the City Engineer. Also, when an additional full width lane for through traffic is to be constructed, bump correction of the new pavement will not be required if the bump also occurs at the location in the adjacent lane. The corrected bumps will be considered satisfactory when measurement by the profilograph shows that the bumps are five-tenths (0.5) inch or less in a 25-foot span.

F. Streets shall use a slip form paver when furnishing Portland cement concrete.

10. Access to Arterials. Where a subdivision borders on or contains an existing or proposed arterial street, the City Council may require that access to such streets be limited by one of the following means:

A. The subdivision of lots so as to back onto the arterial street and front onto a parallel local street. No access shall be provided from the arterial street and screening shall be provided in a strip of land along the rear property line of such lots.

B. A series of cul-de-sac or loop streets, entered from and designed generally at right angles to such parallel street, with the rear lines of their terminal lots backing onto the arterial street. A marginal access street, separated from the arterial street by a buffer or grass strip and having access thereto at suitable points.

C. In a minor subdivision where driveway access is directly from a street, the City Council may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street. Where possible, driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on arterial streets.

D. No more than four parcels in a subdivision can be directly accessed from an arterial street. A cul-de-sac, frontage road or series of interior streets shall be required when the number of lots exceed four, unless a residential driveway that existed prior to January 1, 2008, will be utilized and no new entrances are being constructed.

11. Railroads and Limited Access Highways. Railroad right-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

A. In residential subdivisions, a buffer strip of at least 25 feet in depth, in addition to the normal depth of the lot required in the zoning district, shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the final plat: *This strip is reserved for screening. The placement of structures hereon is prohibited.*

B. In nonresidential subdivisions, the nearest street extending parallel or approximately parallel to the railroad shall, whenever practicable, be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.

C. Streets parallel to a railroad or limited access highway when intersecting a street which crosses the railroad or limited access highway at grade shall, to the extent practical, be at a distance of at least 150 feet from such right-of-way. Such distance shall be determined with consideration of the minimum distance required for further separation of grades by means of appropriate approach gradients.

12. Water Supply. The developer shall make provisions for an approved, adequate supply of potable water to every lot in the subdivision as follows: provide a complete public water supply system, including all hydrants, valves and other appurtenances and a service connection to each lot throughout the entire subdivision.

A. Such system shall extend into and through the subdivision to the boundary lines and shall be connected to a public water

system. Such water supply system shall be designed and constructed in accordance with the standards and specifications of the appropriate State and local authorities. All water mains shall be of such size as to support the use of fire hydrants, as described below.

B. Fire hydrants shall be required for all subdivisions provided with a public water supply. Fire hydrants shall be placed in accordance with the *Uniform Fire Code*. To eliminate future street excavations, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final surfacing of a street shown on the final plat.

13. Sanitary Sewer. The developer shall make provisions for an approved, sanitary means of sewage disposal for every lot in the subdivision as follows: The developer shall provide a complete public sanitary sewer system, including all appurtenances and a service connection to each lot throughout the entire subdivision. Such system shall extend into and through the subdivision to the boundary lines and shall connect to a public sanitary sewer system. Such sanitary sewer system shall be designed and constructed in accordance with the standards and specifications of the appropriate State and local authorities.

14. Drainage. Adequate drainage systems shall be planned and constructed as required throughout the subdivision to carry off storm water from all inlets and catch basins and be connected to an approved outfall. There shall be provided storm-water sewers or a surface drainage system to serve adequately the area being subdivided, considering but not limited to the use of existing drainage channels whenever possible. The design of the drainage system shall consider the drainage area of which the subdivision is a part and existing watercourses. In addition, a longitudinal footing drain collector pipe shall be installed along all new public improved streets and a service connection to each lot throughout the entire subdivision shall also be installed. Such system shall extend into and through the subdivision to the boundary lines and shall connect to a public storm sewer system. All storm drainage facilities shall be constructed based upon criteria established by the City Engineer. The City shall only be responsible for maintenance of storm water sewer structures which lie within the City road right-of-way.

15. Easements. Easements shall be provided for utility service, including storm sewer drainage structures, where necessary. Easements

for sanitary sewer, storm sewer facilities and water supply and distribution lines shall be at least 20 feet in width and other easements shall be at 10 feet in width. All easements shall be established where practicable at the rear and side of each lot and along such other lot lines to provide continuity of alignment from block to block. However, the combined width of such easements shall be equally divided between adjoining lots within any proposed subdivision.

A. All utility distribution lines for telephone, electric, natural gas and cable television service to be installed shall be placed underground within easements or dedicated public right-of-ways. The installation of such facilities shall be made in compliance with the applicable orders, rules and regulations of the State of Iowa, now or hereafter effective, and the owner or developer of any property to be served from such underground installations shall be responsible for compliance with the rules and regulations of any public utility whose services will be required with respect to the provisions of such underground facilities.

B. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, or other body of water, appropriate dedications or easement provisions, with adequate width or construction to accommodate observed, computed or anticipated storm water drainage through and from the subdivision, shall be made. The width of the easement or dedication shall be dependent on the area of land drained by the watercourse and to allow access to the structure for construction and maintenance equipment.

C. A screen planting easement may be required between residential and commercial or industrial lots. If such easement is to be used for public utilities, additional width may be required to assure that maintenance of the utilities would not be detrimental to the plantings.

D. Parks situated in the interior of blocks shall have direct and public access to surrounding streets by an easement at least 20 feet wide, and shall be covered by the restrictive covenants as to maintenance.

16. Reserve Strips. The creation of reserve strips shall not be permitted adjacent to a proposed street in such a manner as to deny access from adjacent property to such street.

17. Subdivision Name. All subdivision names shall be approved by the County Auditor. The proposed name of the subdivision shall not

duplicate, or too closely approximate phonetically, the name of any other subdivision in the City.

18. Street Names. The proposed names of all new streets shall be shown on the preliminary plat and such names shall be sufficiently different in sound and in spelling from other street names in the City so as not to cause confusion. The City Council reserves the right to alter or change the proposed name of any street at any time prior to the approval of the final plat. All street names must be approved by the Development Director.

19. Street Regulatory Signs. At the time of final plat approval, the developer shall pay the City the total cost, including installation, for all street regulatory signs, including street name signs, required by the City Engineer along all streets and at all intersections within or abutting the subdivision.

20. *RESERVED*.

21. Entrances into Individual Lots. It shall be the financial responsibility of the developer to pay for the material and labor required to install individual driveway approaches, when so required. This expense may be borne by a subsequent lot owner at the time development of the lot takes place.

22. Monumentation. The surveyor shall cause to be placed permanent reference monuments in the subdivision as required in Chapter 355, Code of Iowa, as amended.

23. Self-Imposed Restrictions. The City Council, following the review and comment of the Commission, shall have the right to agree with the developer regarding the type and character of the development to be permitted within the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in any protective covenants or deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate character of development in the property to which is subdivided.

177.15 AMENDMENTS. This ordinance or any provision of this ordinance may be changed or amended from time to time by the City Council, provided;

however, such changes or amendments shall not become effective until after a public hearing has been held following due public notice in accordance with the Code of Iowa.

177.16 FEES.

1. Filing Fees Required. A filing fee in accordance with the established fee schedule shall be charged for each application to assist in deferring the cost of administrative review and legal publication. The applicant shall be held responsible for submitting the required filing fee upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.

2. Fee Schedule. The fee schedule as set by the building official is hereby established for matters pertaining to this Ordinance.

3. Payment of Fees. All fees mentioned above shall be paid to the City Treasurer for the general fund of City of Boone, Iowa. The receipt shall be attached to the application submitted to the Development Director or City Engineer.

4. Fee Refund. Whether the request is granted or denied by the Development Director, City Engineer, Commission, or City Council the applicant shall not be entitled to a refund of the fee paid.

177.17 ENFORCEMENT AND LEGAL STATUS PROVISIONS.

1. Violations and Penalties. Any person who shall dispose of or transfer any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved, and recorded as required by law (Iowa Code Chapter 354 and 355) shall forfeit and pay $100.00 for each lot or part of lot transferred or disposed of. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance.

2. Other Legal Remedies. In addition to the penalties described above, the City Council or other proper local authorities of the City, as well as any owner of real estate within the jurisdiction of the City affected by the regulations, may institute any appropriate action or proceedings to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

(Ch. 177 - Ord. 2137 – Sep. 08 Supp.)

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CODE OF ORDINANCES
CITY OF BOONE, IOWA

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