

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 Hazleton, Iowa. *(Ord. 10-04 – Jun. 11 Supp.)*

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Hazleton, Iowa.
3. “Clerk” means the city clerk of Hazleton, 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 Hazleton, Iowa. *(Ord. 10-04 – Jun. 11 Supp.)*
6. “Council” means the city council of Hazleton, Iowa.
7. “County” means Buchanan 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“Ordinances” means the ordinances of the City of Hazleton, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any ordinance, or whenever there is reasonable cause to believe that there exists an ordinance 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, said official shall first 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. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 1983-1 adopting a charter for the City was passed and approved by the Council on July 19, 1983, and was published on July 27, 1983.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.

A. First Offense – Not to exceed \$750.00

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

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

2. Special Civil Penalties.

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

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

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

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

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

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

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings

5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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

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

(Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: “I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Hazleton 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 twenty-five hundred dollars (\$2500.00) in a fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. 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

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. **Petty Cash Fund.** The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims

and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

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

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

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

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

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

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

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

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.

(IAC, 545-2.5[384,388], Sec. 2.5[5])

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.
(Code of Iowa, Sec. 384.16[3])
6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations and have them available for distribution at the offices of the Mayor and City Clerk and have a copy posted at one of the places designated for the posting of notices.
(Code of Iowa, Sec. 384.16[2])
7. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy

certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 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 years.
(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

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

1. Mayor Pro Tem
2. Zoning Board of Adjustment
3. Zoning Administrator
4. Public Works Director
5. Parks and Recreation Board

15.04 COMPENSATION. The salary of the Mayor is sixteen hundred dollars (\$1600.00) per year, payable in biannual installments.
(*Ord. 11-02 – Dec. 13 Supp.*)
(*Code of Iowa, Sec. 372.13[8]*)

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

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than 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 members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. City Attorney
3. City Treasurer
4. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is fifty dollars (\$50.00) for each meeting of the Council attended, not to exceed one thousand dollars (\$1000.00) per year.

(Ord. 11-02 – Dec. 13 Supp.)

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

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CHAPTER 18

CITY CLERK

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

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

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

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

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

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

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

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

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

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

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

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

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

Post Office
City Hall
Maynard Savings Bank

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption

or replacement of public bonds or obligations shall be kept for at least eleven (11) years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

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

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

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

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

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

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

5. Special Assessments. Keep a separate account of all money received from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Clerk's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19

CITY TREASURER

(Sections 19.01 – 19.03 are repealed by Ordinance No. 10-01 – Jun. 11 Supp. and the duties of the City Treasurer under these sections are hereby merged with the duties and responsibilities of the City Clerk of the City of Hazleton.)

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation

20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council or staff.

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

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

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

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

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

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CHAPTER 25

PLANNING AND ZONING COMMISSION

25.01 Planning and Zoning Commission
25.02 Term of Office
25.03 Vacancies

25.04 Compensation
25.05 Powers and Duties

25.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

25.03 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)

25.04 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)

25.05 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 26

PARKS AND RECREATION BOARD

26.01 Parks and Recreation Board Created
26.02 Board Organization
26.03 Duties of the Board

26.04 Reports
26.05 Rules

26.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

26.02 BOARD ORGANIZATION. The Board shall consist of five members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of four years. The Board shall annually choose from its membership a Chairperson, Vice Chairperson and Secretary. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

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

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

26.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation

programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Training
35.04 Compensation
35.05 Election of Officers
35.06 Fire Chief: Duties
35.07 Obedience to Fire Chief

35.08 Constitution
35.09 Accidental Injury Insurance
35.10 Liability Insurance
35.11 Calls Outside Fire District
35.12 Mutual Aid
35.13 Authority to Cite Violations

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 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 \$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 \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value

of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

35.09 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)

35.10 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)

35.11 CALLS OUTSIDE FIRE DISTRICT. The department shall answer calls to fires and other emergencies outside the Fire District if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the Fire District.

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

35.12 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])

35.13 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)

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three 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)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

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

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

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

(Code of Iowa, Sec. 727.2)

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

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

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.13 DRUG PARAPHERNALIA.

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

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

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

(Code of Iowa, Sec. 124.414)

41.14 REGISTRY OF DRUG PRECURSOR SALES. (Repealed by Ordinance No. 05-06 – Dec. 05 Supp.)

41.15 PSEUDOEPHEDRINE RESTRICTIONS.

(Code of Iowa, Sec. 126.23A)

1. A retailer shall not sell and a person shall not purchase in a single transaction more than two packages containing pseudoephedrine as the product’s sole active ingredient.

2. Except as otherwise provided, a retailer who offers for sale a product containing pseudoephedrine as the product’s sole active ingredient shall display and offer such product for sale behind a counter where the public is not permitted or within twenty feet of a counter which allows the attendant to view the products in an unobstructed

manner. A retailer may display or offer for sale without restriction a

product containing pseudoephedrine as the sole active ingredient if the product is displayed using any type of antitheft device system, including but not limited to an electronic antitheft device system that utilizes a product tag and detection alarm which prevents the theft of the product.

3. A retailer shall post a notice at the location where a product containing pseudoephedrine as its sole active ingredient is displayed or offered for sale stating the following:

Iowa law prohibits the sale or purchase of more than two packages containing pseudoephedrine as the sole active ingredient.

4. The provisions of this section do not apply to:

A. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid form.

B. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily intended for administration to children under twelve years of age according to the label, regardless of whether the product is in liquid or solid form.

C. Any package of a product containing pseudoephedrine as the product's sole active ingredient that the Board of Pharmacy Examiners, with the concurrence of the Department of Public Safety, upon application of a manufacturer, exempts from this section because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors.

5. An employee of a retailer who sells or a person who purchases pseudoephedrine in violation of subsection 1 of this section commits a simple misdemeanor, punishable in an amount equal to a scheduled violation under Section 805.8C (4a) of the Code of Iowa. If a citation is issued for a violation of subsection 1, the citation shall be issued to both the employee and the purchaser. For each violation of subsections 1, 2 or 3 of this section by a retailer, the retailer shall be assessed an amount equal to a scheduled fine under Section 805.8C (4b) of the Code of Iowa, which is a civil penalty.

(Ord. 04-11 – Dec. 04 Supp.)

41.16 FIREARM OR WEAPON FREE ZONES.

1. Purpose. Municipal buildings owned, leased, or occupied by the City are declared to be firearm/weapon free zones. It is unlawful for any person, except a peace officer, member of the Armed Forces of the United States or the National Guard, a person in the service of the United States, or

correctional officer serving in an institution under authority of the Iowa Department of Corrections to carry, possess, or display any weapon or firearm within any municipal building.

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

A. “Firearm” means any device or instrument designed to propel (or used in the propulsion of) any bullet, shot, pellet, slug, BB, dart or other projectile by the action of an explosive, or by mechanical or electrical means, within or connected to the device or instrument. The term includes pistols, revolvers, derringers, handguns, pellet guns, rifles, shotguns, muskets, or other devices which can expel or may be readily converted to expel any form of projectile so as to strike an object or person.

B. “Municipal building” means any structure, dwelling, garage, or shelter owned, leased, or otherwise occupied by the City and used for any municipal or public purposes by the City.

C. “Weapon” means and includes all weapons as defined or described in Sections 724.1 and 724.4 of the *Code of Iowa*, as amended.

3. Detection. Persons entering any municipal building may, upon probable cause to believe they are carrying or in possession of a weapon or firearm, be subject to metal detection testing or personal search.

4. Penalties. Any person violating the provisions of this section shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days or a municipal infraction with a fine not to exceed \$750.00.

(Ord. 11-01 – Jun. 11 Supp.)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft

42.01 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 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 62.07 of this Code of Ordinances.)*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.04 Minors in Billiard Rooms

46.01 CURFEW. The Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 18 in the City; and that persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and the City has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public and for the reduction of the incidence of juvenile criminal activities.

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

A. “Curfew hours” means 10:30 p.m. until 5:00 a.m.

B. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

C. “Establishment” means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

D. “Guardian” means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

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

F. “Operator” means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

G. “Parent” means a person who is:

- (1) A biological parent, adoptive parent or step-parent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

H. “Public place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

I. “Remain” means: (a) to linger or stay; or (b) to fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

J. “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

2. Offenses.

A. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.

B. A parent or guardian of a minor commits an offense if said parent or guardian knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

C. The owner or operator or any employee of an establishment commits an offense if said owner, operator or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

3. Defenses. It is a defense to prosecution under this section that the minor was:

- A. Accompanied by the minor’s parent or guardian;
- B. On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
- C. In a motor vehicle involved in interstate travel;
- D. Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
- E. Involved in an emergency;
- F. On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Sheriff’s Department about the minor’s presence;

G. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home, without any detour or stop, from such activity;

H. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

I. Married or previously married.

It is a defense to prosecution under subsection 2C that the owner, operator or employee of an establishment promptly notified the Sheriff's Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. Enforcement.

A. Before taking any enforcement action under this section, a peace officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer believes that an offense has occurred and that, based on any response and other circumstances, no defense under subsection 3 is present.

B. A minor who is in violation of this section shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the peace officer.

5. Penalty. The violation of this section is a municipal infraction with penalties not to exceed those contained in Chapter 3 of this Code of Ordinances.

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

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

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

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

46.04 MINORS IN BILLIARD ROOMS. It is unlawful for any person who keeps a billiard hall where beer, liquor or wine is sold, or the agent, clerk or employee of any such person, or any person having charge or control of any such hall, to permit any minor to remain in such hall or to take part in any of the games known as billiards or pool.

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose

47.02 Use of Drives Required

47.03 Fires

47.04 Littering

47.05 Parks Closed

47.06 Marti Johnson Memorial Bike and Walking Trail

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person shall enter or remain within any park after dusk.

47.06 MARTI JOHNSON MEMORIAL BIKE AND WALKING TRAIL. No person, except those authorized by the City for maintenance purposes, shall drive any motorized vehicle, horse or buggy on any portion of a park or the Marti Johnson Memorial Bike and Walking Trail, except upon the established drives or roadways therein, or in such other places as may be officially designated by the City. All persons using the trail shall follow the regulations established for City Parks.

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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 62.08)**

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, grasses, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard. The following maximum vegetation heights shall be maintained:

<u>Land Use</u>	<u>Maximum Vegetation Height</u>
Developed Residential, Commercial and Industrial Zoned Areas	8 inches
Undeveloped Residential, Commercial, and Industrial Zones Areas	12 inches
Unplatted property and agricultural zoned property, unless planted for crops	18 inches

10. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 150)**

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. Septic Tanks or Drain Fields. Effluent from septic tank or drain field running or ponding on the ground in the open.

14. Obstructing Drainage. Any article or substance placed upon a street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the drainage.

15. Rubbish or Trash Accumulations. Accumulations of rubbish or trash tending to harbor vermin, rodents and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Dangerous Buildings (**See Chapter 145**)
3. Storage and Disposal of Solid Waste (**See Chapter 105**)
4. Trees (**See Chapter 150**)

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.

[†] **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.

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

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

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time 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 month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same

interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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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. A garage or other enclosed structure; or
2. The premises of a business enterprise operated in a district properly zoned therefor, when necessary to the operation of said business enterprise, as authorized under the Zoning Ordinance of the City; or
3. An appropriate storage space or depository maintained in a lawful place and lawful manner by the City for vehicles impounded by the City.

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance

55.09 Vicious Dogs and Cats
55.10 Sanitation
55.11 Rabies Vaccination
55.12 Owner's Duty
55.13 Confinement
55.14 At Large: Impoundment
55.15 Disposition of Animals
55.16 Pet Awards Prohibited

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

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.
(Code of Iowa, Sec. 717.1)
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

55.09 VICIOUS DOGS AND CATS. It is unlawful for any person to harbor or keep a vicious dog or cat within the City. A dog or cat is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.10 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

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

(Code of Iowa, Sec. 351.33)

55.12 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

55.15 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Definitions. As used in this section, the following terms are defined:

A. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.

B. “Business” means any enterprise relating to any of the following:

- (1) The sale or offer for sale of goods or services.
- (2) A recruitment for employment or membership in an organization.
- (3) A solicitation to make an investment.
- (4) An amusement or entertainment activity.

C. “Fair” means any of the following:

- (1) The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
- (2) An exhibition of agricultural or manufactured products.
- (3) An event for operation of amusement rides or devices or concession booths.

D. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.

E. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

2. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

- A. A prize for participating in a game.
- B. A prize for participating in a fair event.
- C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
- D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

3. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

(Ord. 04-12 – Dec. 04 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

60.05 Traffic Accidents: Reports
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

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

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

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

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

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

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

(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 Council. 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. Exceptions to Permit Requirement. The Commercial Club and Community Club do not require a written permit to conduct a parade. The information with regard to the date and time and street route for the parade shall be submitted to the Council.
4. 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.
5. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The peace officer 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 peace officer 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 is 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 Tampering with Vehicle

62.07 Open Containers in Motor Vehicles
62.08 Obstructing View at Intersections
62.09 Reckless Driving
62.10 Careless Driving
62.11 Jake-Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
8. Section 321.99 – Fraudulent use of registration.
9. Section 321.174 – Operators licensed.
10. Section 321.174A – Operation of motor vehicles with expired license.
11. Section 321.180 – Instruction permits.
12. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
13. Section 321.193 – Restricted licenses.
14. Section 321.194 – Special minor's licenses.
15. Section 321.216 – Unlawful use of license and nonoperator's identification card.

16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
19. Section 321.220 – Permitting unauthorized person to drive.
20. Section 321.221 – Employing unlicensed chauffeur.
21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
23. Section 321.224 – Record kept.
24. Section 321.232 – Radar jamming devices; penalty.
25. Section 321.234A – All-terrain vehicles.
26. Section 321.235A – Electric personal assistive mobility devices.
27. Section 321.247 – Golf cart operation on City streets.
28. Section 321.257 – Official traffic control signal.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking and otherwise.

- 43. Section 321.303 – Limitations on overtaking on the left.
- 44. Section 321.304 – Prohibited passing.
- 45. Section 321.306 – Roadways laned for traffic.
- 46. Section 321.307 – Following too closely.
- 47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 48. Section 321.309 – Towing; convoys; drawbars.
- 49. Section 321.310 – Towing four-wheel trailers.
- 50. Section 321.312 – Turning on curve or crest of grade.
- 51. Section 321.313 – Starting parked vehicle.
- 52. Section 321.314 – When signal required.
- 53. Section 321.315 – Signal continuous.
- 54. Section 321.316 – Stopping.
- 55. Section 321.317 – Signals by hand and arm or signal device.
- 56. Section 321.319 – Entering intersections from different highways.
- 57. Section 321.320 – Left turns; yielding.
- 58. Section 321.321 – Entering through highways.
- 59. Section 321.322 – Vehicles entering stop or yield intersection.
- 60. Section 321.323 – Moving vehicle backward on highway.
- 61. Section 321.323A – Approaching certain stationary vehicles.
- 62. Section 321.324 – Operation on approach of emergency vehicles.
- 63. Section 321.324A – Funeral processions.
- 64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
- 65. Section 321.330 – Use of crosswalks.
- 66. Section 321.332 – White canes restricted to blind persons.
- 67. Section 321.333 – Duty of drivers.
- 68. Section 321.340 – Driving through safety zone.
- 69. Section 321.341 – Obedience to signal of train.
- 70. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 71. Section 321.343 – Certain vehicles must stop.

- 72. Section 321.344 – Heavy equipment at crossing.
- 73. Section 321.344B – Immediate safety threat; penalty.
- 74. Section 321.354 – Stopping on traveled way.
- 75. Section 321.359 – Moving other vehicle.
- 76. Section 321.362 – Unattended motor vehicle.
- 77. Section 321.363 – Obstruction to driver's view.
- 78. Section 321.364 – Preventing contamination of food by hazardous material.
- 79. Section 321.365 – Coasting prohibited.
- 80. Section 321.367 – Following fire apparatus.
- 81. Section 321.368 – Crossing fire hose.
- 82. Section 321.369 – Putting debris on highway.
- 83. Section 321.370 – Removing injurious material.
- 84. Section 321.371 – Clearing up wrecks.
- 85. Section 321.372 – School buses.
- 86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 87. Section 321.381A – Operation of low-speed vehicles.
- 88. Section 321.382 – Upgrade pulls; minimum speed.
- 89. Section 321.383 – Exceptions; slow vehicles identified.
- 90. Section 321.384 – When lighted lamps required.
- 91. Section 321.385 – Head lamps on motor vehicles.
- 92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 93. Section 321.387 – Rear lamps.
- 94. Section 321.388 – Illuminating plates.
- 95. Section 321.389 – Reflector requirement.
- 96. Section 321.390 – Reflector requirements.
- 97. Section 321.392 – Clearance and identification lights.
- 98. Section 321.393 – Color and mounting.
- 99. Section 321.394 – Lamp or flag on projecting load.
- 100. Section 321.395 – Lamps on parked vehicles.

101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
111. Section 321.417 – Single-beam road-lighting equipment.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
116. Section 321.422 – Red light in front.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.
126. Section 321.439 – Windshield wipers.
127. Section 321.440 – Restrictions as to tire equipment.
128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.

- 131. Section 321.445 – Safety belts and safety harnesses; use required.
- 132. Section 321.446 – Child restraint devices.
- 133. Section 321.449 – Motor carrier safety regulations.
- 134. Section 321.450 – Hazardous materials transportation.
- 135. Section 321.454 – Width of vehicles.
- 136. Section 321.455 – Projecting loads on passenger vehicles.
- 137. Section 321.456 – Height of vehicles; permits.
- 138. Section 321.457 – Maximum length.
- 139. Section 321.458 – Loading beyond front.
- 140. Section 321.460 – Spilling loads on highways.
- 141. Section 321.461 – Trailers and towed vehicles.
- 142. Section 321.462 – Drawbars and safety chains.
- 143. Section 321.463 – Maximum gross weight.
- 144. Section 321.465 – Weighing vehicles and removal of excess.
- 145. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 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.

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

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

(Code of Iowa, Sec. 321.277)

62.10 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.

62.11 JAKE-BRAKES. It is unlawful for any person in the operation of a motor vehicle to use engine compression braking devices or engine retarders, commonly referred to as “jake-brakes,” when slowing or stopping vehicles within the City limits. The scheduled fine for violation of this section is \$25.00 plus all applicable surcharges and court costs.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

63.04 SPECIAL SPEED ZONES. 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 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. Business District: from the south side of the bridge located on Highway 150 north of the intersection of North Street and Highway 150 to the south side of the intersection of South Street and Highway 150.
2. Speed limit starting at City limits on West Hayes Street (C-57) coming east will be posted as 45 MPH at ZERO feet, and then 25 MPH at 800 feet.
(Ord. 08-04 – Dec. 08 Supp.)
3. Speed limit on West Hayes Street (C-57) will be posted at 45 MPH at 800 feet from west City limits going west.
(Ord. 09-01 – Jun. 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)

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-turns

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

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

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

1. On Hayes Street West, west of Highway 150.

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CHAPTER 65

STOP OR YIELD REQUIRED

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

65.05 School Stops
65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Main Street, from north City limits to south City limits.
2. Hayes Street (except Main Street) from east City limits to west City limits.

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

(Code of Iowa, Sec. 321.345)

1. First Street. Vehicles traveling on First Street shall stop at Sufficool Street.
2. Madison Street. Vehicles traveling on Madison Street shall stop at Sufficool Street.
3. Monroe Street. Vehicles traveling south on Monroe Street shall stop at Sufficool Street.
4. Palmer Drive. Vehicles traveling north on Palmer Drive shall stop at South Street.
5. Sufficool Street. Vehicles traveling east on Sufficool Street shall stop at Monroe Street.
6. Third Street. Vehicles traveling on Third Street shall stop at Benton Street.
7. Alley. Vehicles traveling out of the alley between Main Street and Third Street shall stop at Sufficool Street.
8. Alley. Vehicles traveling out of the alley between Main Street and Third Street shall stop at Benton Street.
9. Unnamed Street. Vehicles traveling south out of the southeast entrance to Horkheimer Trailer Court shall stop at South Street.

10. Eastline Drive. Vehicles traveling south on Eastline Drive shall stop at County Road C-57.

11. Southline Drive. Vehicles traveling east on Southline Drive shall stop at Eastline Drive.

12. Southline Drive. Vehicles traveling west on Southline Drive shall stop at Westline Drive.

13. Third Street. Vehicles traveling south on Third Street shall stop at South Street.
(Ord. 08-03 – Dec. 08 Supp.)

14. Palmer Drive. Vehicles traveling north on Palmer Drive shall stop at South Street.
(Ord. 08-03 – Dec. 08 Supp.)

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

1. (Repealed by Ordinance No. 08-03 – Dec. 08 Supp.)

65.04 YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:
(Code of Iowa, Sec. 321.345)

1. Sufficool Street. Vehicles traveling on Sufficool Street shall yield at Third Street.

2. First Street. Vehicles traveling on First Street shall yield at Benton Street.

3. Madison Street. Vehicles traveling on Madison Street shall yield at Benton Street.

4. Benton Street. Vehicles traveling on Benton Street shall yield at Monroe Street.

65.05 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site.
(Code of Iowa, Sec. 321.249)

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to

pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.07 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges
66.05 Truck Route

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 Council 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 at any time 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 Council may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:
(Code of Iowa, Sec. 321.473)
 - A. Main Street (Highway 150).
 - B. Hayes Street.
2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.
(Code of Iowa, Sec. 321.473)
3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 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])

- NONE -

o o o o o o o o o

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 Snow Emergency
69.10 Snow Routes
69.11 Truck Parking Limited

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Hayes Street West, on the north side, in front of Legion/Community Hall.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than twenty-four (24) hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.
2. Center Parkway. On the center parkway or dividing area of any divided street.

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

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

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

4. Sidewalks. On or across a sidewalk.

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

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

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

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

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

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, Sec. 321.358 [6])

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

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

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

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358 [13])

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Main Street (Highway 150), on the northeast side, from Hayes Street north 90 feet;
2. Main Street (Highway 150), on the northwest side, from Hayes Street north 95 feet;
3. Main Street (Highway 150), on the southeast side, from Hayes Street south 95 feet;
4. Main Street (Highway 150), on the southwest side, from Hayes Street south 75 feet;
5. Main Street (Highway 150), on both sides, from Sufficool Street north 116 feet;
6. Main Street (Highway 150), on both sides, from Sufficool Street to South Street.

(Ord. 07-01 – Dec. 07 Supp.)

69.09 SNOW EMERGENCY.

1. **Parking Prohibited.** No person shall park, abandon or leave unattended any vehicle on any street or avenue during any snow emergency proclaimed by the Mayor, unless the snow has been removed from said street or avenue and the snow has ceased to fall.
2. **Mayor's Proclamation.** The Mayor is hereby granted the authority to issue a proclamation declaring a snow emergency and a snow emergency parking ban, and the Mayor shall inform the news media to publish the proclamation and the parking regulations set forth in this section.
3. **Duration.** A snow emergency parking ban on designated snow routes shall continue from its proclamation through the duration of the snow or ice storm and a period not to exceed forty-eight (48) hours after cessation of such storm, except as provided herein.
4. **Penalty.** Any person in violation of this section shall upon conviction be guilty of a simple misdemeanor. In addition, any vehicle found parked, abandoned or left unattended in violation of this section may be

removed upon the order of the Sheriff's Department and the costs of said removal shall be assessed to the registered owner of the vehicle removed.

(Code of Iowa, 321.236[1])

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

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

69.11 TRUCK PARKING LIMITED.

1. Purpose. The City Council finds that in the interest of public safety and in the interests of preserving City street improvements, certain regulations are necessary with respect to the parking of semi-truck tractors, special trucks and semi-trailers.

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

A. "Semi" means any one of or part of either semi-truck tractors, special trucks and semi-trailers associated with and/or which are hauled by or capable of being hauled by a semi-truck tractor, and including such vehicles of those types as are defined in Section 321.1 of the Code of Iowa. This definition shall not include fire trucks or other emergency vehicle trucks but shall include farm vehicles which otherwise fit the definition.

B. "Street" means the street right-of-way in full, which encompasses the area between the sidewalk and the street, as well as the actual street. It also means and includes the entire alley right-of-way.

3. Limitations and Restrictions.

A. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the City streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic. Such loading or unloading shall not take more than two hours, unless authorized by the Sheriff's Department by written authorization.

B. Parking. No such vehicle shall be left unattended or parked upon any City street or alley for a period of time longer

than one hour of any day. Tractors, with trailer unattached, may enter private property only through previously constructed driveway entrances that traverse a curb line or sidewalk for overnight parking. Semis may not traverse a curb or sidewalk in the street right-of-way or alley right-of-way, excepting only for the purpose of immediate loading or unloading of cargo or freight. Parking of unattached trailers is limited to the Commercial and Manufacturing Districts only. Hazardous placard trailers are not allowed to be parked anywhere within the City.

(Ord. 05-05 – Dec. 05 Supp.)

C. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds for more than thirty (30) minutes.

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

(Ord. 04-15 – Dec. 04 Supp.)

E. Hazleton Residents Only. Truck parking limited to Hazleton residents only.

(Ord. 05-05 – Dec. 05 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

(Code of Iowa, Sec. 805.8 & 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the Police Department. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for snow route parking violations and ten dollars (\$10.00) for all other violations, except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the fine in a timely fashion shall cause the City to contact the Buchanan County Treasurer's office to allow them to refuse to renew motor vehicle registration for the violator.

Any alleged violation of the parking restrictions imposed by this Code of Ordinances may be challenged by way of hearing before the Mayor. The City's burden is proof beyond a reasonable doubt. The Officer issuing the ticket must appear at the time of the hearing and be subject to cross-examination. The alleged parking violator has a right to call witnesses on his own behalf. The

hearing shall be conducted in an informal basis and the violator must provide to the City written notice of appeal within ten (10) days of the Mayor's decision. If the violator files a timely notice, by filing with the Clerk of Court within ten (10) days of the decision, the City shall proceed to prosecute this under Iowa Code Sections 805.7 to 805.15, or as any other traffic violation as provided under Iowa Code Section 321.236(1)(b).

(Ord. 13-01 – Dec. 13 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])

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose	75.06 Hours of Operation
75.02 Definitions	75.07 Negligence
75.03 General Regulations	75.08 Accident Reports
75.04 Operation of Snowmobiles	75.09 Dead Man Throttle
75.05 Operation of All-Terrain Vehicles	

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

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

(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 within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

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

1. Streets. Snowmobiles shall be operated on any street within the City for the sole and exclusive purpose of using the most direct roadway for the ingress to and egress from the City. No snowmobile shall be driven on any roadway solely for entertainment or pleasure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the

express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

7. Private Property. Snowmobiles shall not be operated on private property of another without the express permission to do so by the owner or occupant of the property.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1& 2A])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[3])

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

(Code of Iowa, Sec. 321I.14[h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

6. Private Property. ATVs shall not be operated on private property of another without the express permission to do so by the owner or occupant of the property.

75.06 HOURS OF OPERATION. No ATV or snowmobile shall be operated in the City between the hours of 11:00 p.m. and 10:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.08 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 (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

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

(Ch. 75 - Ord. 04-10 – Dec. 04 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

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CHAPTER 77

SCOOTERS, SKATEBOARDS, ROLLER SKATES AND IN-LINE SKATES

77.01 Definitions

77.02 Operation Prohibited in Certain Areas

77.03 Use of Sidewalks

77.04 Use on Streets

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

1. “Roller skates” or “in-line skates” means skates with wheels instead of a runner;
2. “Scooter” means a device having two wheels and a low footboard which is steered by a handlebar and is propelled by pushing one foot against the ground while resting the other on the footboard;
3. “Skateboard” means a device consisting of a short oblong piece of wood, plastic or aluminum mounted on large roller skate wheels used for riding upon while standing.

77.02 OPERATION PROHIBITED IN CERTAIN AREAS. No person shall ride or operate any scooter, skateboard or roller skates or in-line skates upon the sidewalks and streets within the Commercial District as established in Section 165.36 of this Code of Ordinances or in any public park.

77.03 USE ON SIDEWALKS. Whenever any person is using a scooter, skateboard or roller skates or in-line skates on any other sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

77.04 USE ON STREETS. Whenever any person is using a scooter, skateboard or roller skates or in-line skates on any other street, such person shall:

1. Observe all traffic control devices and be subject to all the duties applicable to the use of vehicles as required by statute or ordinance;
2. Stay as near to the right-hand side of the roadway as possible, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Extension of Time

80.06 Fees for Impoundment

80.07 Disposal of Abandoned Vehicles

80.08 Disposal of Totally Inoperable Vehicles

80.09 Proceeds from Sales

80.10 Duties of Demolisher

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

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

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day

reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 EXTENSION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten-day reclaiming period, obtain an additional five (5) days within which the motor vehicle or personal property may be reclaimed.

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

80.06 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay fees in an amount set by resolution of the Council plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

80.08 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification

procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

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CHAPTER 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 Excavations
90.09 Tapping Mains

90.10 Installation of Water Service Pipe
90.11 Responsibility for Water Service Pipe
90.12 Failure to Maintain
90.13 Curb Valve
90.14 Interior Valve
90.15 Inspection and Approval
90.16 Completion by the City
90.17 Shutting off Water Supply
90.18 Operation of Curb Valve and Hydrants

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

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

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

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

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

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

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

90.07 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of five thousand dollars (\$5,000.00), secured by a responsible surety bonding

company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of two years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of \$5,000.00 may be filed with the City.

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

90.09 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a $\frac{3}{4}$ -inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.10 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of

any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

90.12 FAILURE TO MAINTAIN. When any portion of the water service pipe becomes defective or creates a nuisance and the owner fails to correct said nuisance within ten days of notice from the City, the City Council may authorize the Mayor to direct repair of that portion of the defective water pipe and the Clerk may then assess costs of said repair to the property.

(Ord. 10-03 – Jun. 11 Supp.)

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

90.13 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.

90.14 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.

90.15 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.

90.16 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and

the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.17 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.

90.18 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems – Exception
91.04 Location of Meters
91.05 Meter Setting

91.06 Meter Costs
91.07 Meter Repairs
91.08 Right of Entry
91.09 Meter Installation Fee

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

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

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

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

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

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

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

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

91.09 METER INSTALLATION FEE. There shall be a fee, set by resolution of the Council, charged to the property owner for each new installation of a water meter.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits
92.10 Temporary Vacancy

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

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Calendar Month	Rate
First 1,500 gallons	\$6.50 (minimum bill per household or business)
Each additional 1,000	\$3.70 per 1,000 gallons

Effective July 1, 2004, the monthly rates will be as follows:

Gallons Used Per Calendar Month	Rate
First 1,500 gallons	\$7.50 (minimum bill per household or business)
Each additional 1,000	\$6.30 per 1,000 gallons

After June 30, 2005, all rates will be adjusted according to the *Consumer Price Index* reports.

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the rates shown below. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

Gallons Used Per Calendar Month	Rate
First 1,500 gallons	\$8.75 (minimum bill per household or business)
Each additional 1,000	\$5.20 per 1,000 gallons

Effective July 1, 2004, the monthly rates for customers outside the corporate limits of the City will be as follows:

Gallons Used Per Calendar Month	Rate
First 1,500 gallons	\$9.75 (minimum bill per household or business)
Each additional 1,000	\$7.80 per 1,000 gallons

After June 30, 2005, all rates will be adjusted according to the *Consumer Price Index* reports.

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

(Code of Iowa, Sec. 384.84)

1. **Bills Issued.** The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. **Bills Payable.** Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of the month.
3. **Late Payment Penalty.** Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail 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 by noon of the day preceding the shut off, the Hearing Board shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Hearing Board's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of twenty-five dollars (\$25.00) shall be charged for disconnection of service because of delinquency of payment. A fee of twenty-five dollars (\$25.00) will also be charged to have service reconnected. When service is required after regular work hours, an additional fee of twenty dollars (\$20.00) will be charged. Account must be paid in full, including all penalties and fees, before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

(Ord. 06-01 – Dec. 06 Supp.)

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. 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 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.

(Code of Iowa, Sec. 384.84)

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. A customer deposit is required of all customers who are tenants, or others having no established credit record and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, to be set to the nearest \$5.00. Customers who have established acceptable credit records for three (3) years shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the Clerk to require a new or larger deposit for the continuation of service.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb 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 restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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CHAPTER 93

PUBLIC WATER SUPPLY WELLHEAD PROTECTION REGULATIONS

93.01 Purpose	93.08 Exceptions
93.02 Definitions	93.09 Determination of Locations Within Zones
93.03 Substances Regulated	93.10 Enforcement and Penalties
93.04 Maps of Zones of Influence	93.11 Inspections
93.05 Restrictions Within the Primary Protection Zone	93.12 Notice of Violation and Hearing
93.06 Restrictions Within the Secondary Protection Zone	93.13 Injunctive Relief
93.07 Restrictions Within the Zone of Sensitivity	

93.01 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the City's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the City.

93.02 DEFINITIONS.

1. "Alluvium" means sand, clay, etc., gradually deposited by moving water.
2. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
4. "Flow system boundaries" means a delineation criterion that uses groundwater divides, surface water bodies or other hydrologic/physical features to delineate a Wellhead Protection Area.
5. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
6. "Hazardous substances" means those materials specified in Section 93.03 of this chapter.
7. "Labeled quantities" means the maximum quantity of chemical as recommended on the label, for specific applications.
8. "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.

9. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.
10. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.
11. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
12. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
13. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
14. "Secondary containment" means the level of product-tight containment external to and separate from the primary containment. Secondary containment consists of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
15. "Shallow well" means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.
16. "Time-related capture zone" means the surface or subsurface area surrounding a pumping well(s) that will supply groundwater recharge to the well(s) within some specified period of time.
17. "Toxic substance" means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.
18. "Transit" means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked

(within the wellhead protection area) for a period not to exceed two (2) hours.

19. “Water pollution” means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.

20. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.

21. “Well field” means a tract of land that contains a number of wells for supplying water.

22. “Wellhead protection zones” means the zones delineated by fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.

23. “Zones of contribution” means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

93.03 SUBSTANCES REGULATED. The materials regulated by this chapter are the following:

1. Substances listed in 40 CFR Section 302.4, List of Hazardous Substance and Reportable Quantities.
2. Substances listed by the Iowa Labor Commissioner pursuant to Section 89B.12 of the Code of Iowa (Hazardous Chemicals Risks - Right to Know).
3. Substances listed in 40 CFR Section 261, subparts A, B, C and D, Federal Hazardous Waste List.

93.04 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zones of Protection maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file at City Hall. At the time of adoption of the ordinance codified by this chapter, the location of all wells in the City supplying potable water to the City Water System shall be located on the official Wellhead Protection Map with Primary Zone, Secondary Zone and Zone of Sensitivity indicated.

2. Map Maintenance. The Zone of Protection maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:
 - A. Changes in the technical knowledge concerning the aquifer.
 - B. Changes in permitted pumping capacity of City wells.
 - C. Additions of wells or elimination of existing wells.
 - D. Designation of new well fields.
3. Wellhead Protection Zones. The zones of protection indicated on the Zone of Protection maps are as follows:
 - A. Primary Protection Zone — The area within the two (2) year time-related capture zone of any well supplying potable water to the City Water System.
 - B. Secondary Protection Zone — The area within the ten (10) year time-related capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the City Water System.
 - C. Zone of Sensitivity — The area within the twenty (20) year time-related capture zone, excluding the Primary and Secondary Protection Zones, from any well supplying potable water to the City Water System.

93.05 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited.
 - A. Industrial buildings with the Wellhead Protection Zone, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the City.
 - B. Playgrounds/parks.
 - C. Wildlife areas, open spaces.
 - D. Lawns and gardens.

E. Nonmotorized trails, such as biking, skiing, nature and fitness trails.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

93.06 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

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

A. All uses listed as permitted in the Primary Protection Zone.

B. Sewer - residential and commercial.

C. Above ground storage tanks when noncompliant with State Fire Marshal's regulations.

D. Basement storage tanks.

E. Livestock grazing and field cropping activities.

2. Additional restrictions are as follows:

A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

B. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

C. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to

the Wellhead Protection Officer regardless of their status under Section 93.08(4).

93.07 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.

1. Permitted Uses. The following uses are permitted in the Zone of Sensitivity. Uses not listed are to be considered prohibited.
 - A. All uses listed as permitted in the Primary Protection Zone.
 - B. All uses listed as permitted in the Secondary Protection Zone.
 - C. All uses, handling and storage, when in compliance with, and allowed by, Federal, State, and local laws and regulations.
2. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the Zone of Sensitivity.
 - B. Any person(s) responsible for discharging or causing or permitting such discharges of hazardous substances will be financially responsible for all environmental cleanup costs, and may be subject to fines.

93.08 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:
 - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
 - C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
 - D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.
 - E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
 - F. Consumer products located in the home which are used for personal, family, or household purposes.
 - G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an

enclosed secondary containment system is provided for the hazardous substance.

H. The use of water treatment chemicals connected with the operation of the well or plant.

2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone, must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance unless exemption is granted by the City Council.

3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.

4. All requests for permits or special exceptions in the Hazleton Wellhead Protection Zones must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

93.09 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zone of Protection Maps, the following rules shall apply:

1. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.

2. For properties having parts lying within more than (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

93.10 ENFORCEMENT AND PENALTIES.

1. The Water Superintendent is designated as the Wellhead Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this chapter.
2. The Wellhead Protection Inspector(s) shall be the Water Superintendent.
3. No building permit shall be issued which is a violation of the Iowa DNR *Separation Distances From Wells*, a violation of this chapter or a source of contamination for a City well.
4. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary zones.
5. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

93.11 INSPECTIONS.

1. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer or Inspector to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.
3. The Wellhead Protection Officer or Inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under Section 93.08(4).

93.12 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;

2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations; and
4. State that said violation(s) shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

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

(Ch. 93 – Ord. 06-04 – Dec. 06 Supp.)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Director of Public Works of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

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

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

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

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

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

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

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

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of

the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Plumber Required
96.03 Excavations
96.04 Connection Requirements
96.05 Interceptors Required

96.06 Sewer Tap
96.07 Inspection Required
96.08 Property Owner's Responsibility
96.09 Abatement of Violations

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

96.02 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the minimum sum of five thousand dollars (\$5,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for

a period of two years except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of \$5,000.00 may be filed with the City.

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

96.04 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or

crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

14. Cleanouts. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

96.05 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.06 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

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

96.08 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.

96.09 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 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges – Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

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

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

capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

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

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

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

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

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and

other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

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

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

(IAC, 567-69.1[3 & 4])

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

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems

99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

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

(Code of Iowa, Sec. 384.84)

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

\$9.00 per month for first 1,500 gallons used per calendar month
(minimum charge per household or business);

\$4.00 for each additional 1,000 gallons used per calendar month;

Effective July 1, 2004, the service charges shall be:

\$10.00 per month for first 1,500 gallons used per calendar month
(minimum charge per household or business);

\$5.00 for each additional 1,000 gallons used per calendar month;

After June 30, 2005, all rates will be adjusted according to the *Consumer Price Index* reports.

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

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

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

99.06 LIEN FOR NONPAYMENT. 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)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices

105.01 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. “Discard” means to place, cause to be placed, throw, deposit or drop.

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

3. “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.

4. “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)

5. “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])

6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

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

7. “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.

8. “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)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

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 of the State Department of Natural Resources.

(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 that open burning is permitted in the following circumstances:

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

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

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other

than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

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

(IAC, 567-23.2[3g])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

8. Burning Allowed. During the months of October, November, April, May and June yard waste (leaves, branches, grass, etc.) can be burned outside of a containment on private property. During the months of January, February, March, July, August, September and December burning is allowed but fire must be inside of a non-combustible containment not more than five feet across and flames must be less than five feet high and will be considered a recreational fire. All fires shall be constantly attended by a person who shall assume responsibility for the burning.

9. Burn Barrels Prohibited. No burning shall be permitted in containers. "Burn barrels," incinerators and similar devices are prohibited.

10. Authority to Extinguish. The City of Hazleton, through its Fire Department, Law Enforcement Department or Mayor, is authorized to prohibit and immediately extinguish any open burning occurring within the City that is deemed to violate provisions of subsections 8 and 9 or to constitute an emergency or a danger to the safety of person or property.

11. Penalty. Violation of any provision of subsections 8 and 9 shall constitute a municipal infraction subjecting violators to the following penalties:

First Offense	Warning
Second Offense	\$60.00
Third Offense	\$100.00
Fourth and Subsequent Offense	Up to \$500.00
<i>(Subsections 8-11 - Ord. 10-02 – Jun. 11 Supp.)</i>	

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, burned on the premises during designated times in the spring and fall, or hauled by the customer to the City disposal site. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. 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 of the State Department of Natural Resources. 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, 567-102.13[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. Waste Management of Independence shall provide 35-gallon or 64-gallon waste containers to residential customers. The containers shall be securely fastened.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

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.

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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 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste and recyclables, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

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

(IAC, 567-104.9[455B])

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

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

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

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste or recyclables from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The fees for solid waste collection and disposal service, including recycling, used or available, are:
 - A. \$10.65 per household dwelling for one 35-gallon garbage cart plus recycling;
(Ord. 08-02 – Dec. 08 Supp.)
 - B. \$12.88 per household dwelling for one 64-gallon garbage cart plus recycling;
(Ord. 08-02 – Dec. 08 Supp.)
 - C. Apartment buildings, businesses, firms or corporations and any other entities not included in paragraphs A and B will be responsible for the disposal of their own solid waste.
 - D. A deposit shall be required with all new rental applicants for service as stipulated by property owner.
 - E. Fuel surcharge fees paid to hauler will be added to billing, using average of actual cost from previous year, divided by number of users. Amount will be adjusted annually by resolution.

(Ord. 08-02 – Dec. 08 Supp.)

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 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Modern Service Required
110.03 Safe Operation Required
110.04 Construction and Excavations

110.05 Extension of Service
110.06 Indemnification of City
110.07 Rates
110.08 Successors and Assigns

110.01 FRANCHISE GRANTED. The City hereby grants unto Interstate Power Light & Power Company, an Iowa corporation, its successors and assigns, hereinafter called the Grantee, a nonexclusive franchise and right for a period of twenty-five (25) years from and after the date the ordinance codified by this chapter became effective[†], to erect, construct, reconstruct, maintain and operate within the corporate limits of the City, as the same are now or hereafter may be located or extended, a natural gas plant, or plants, and/or a plant, or plants, for the manufacturing and processing of any and all kinds of gas, and to erect, construct, reconstruct, maintain and operate within said corporate limits distributing systems for the distribution of natural gas, or any and all other types and kinds of gas, whether said plant, or plants, and distribution systems have been heretofore or hereafter may be constructed, together with the franchise and right to enter upon and to use and occupy the streets, avenues, alleys, bridges and other public places of the City as the same now are or hereafter may be located or extended, for the purpose of constructing, reconstructing, maintaining and operating therein, thereon and thereunder systems for the distribution of natural gas and/or any and all other kinds of gas, consisting of mains, pipes, pipe lines, distributing lines, conduits and other equipment, appurtenances and construction necessary or incident to said distribution systems, and together with the franchise and right to supply, distribute and sell natural gas and/or any and all other kinds of gas to the City and to the inhabitants thereof and others within and without the corporate limits of the City for any and all purposes, and upon such terms and conditions and under such restrictions and regulations as are hereinafter contained, and such other reasonable rules and regulations as hereafter may be provided by the rule-making body having jurisdiction thereof.

110.02 MODERN SYSTEM REQUIRED. The Grantee shall maintain within the City a modern gas service, with sufficient capacity to meet the reasonable requirements of its patrons, and shall supply same in such a manner

[†] **EDITOR'S NOTE:** Ordinance No. 1, adopting a natural gas franchise for the City, was passed and adopted on August 24, 1979. Voters approved the franchise at an election held on October 9, 1979. Ordinance No. 05-03, adopted March 16, 2005, updated the Company name to Interstate Power & Light Company and extended the franchise for a period of twenty-five years.

as to render efficient service unless prevented by an act of God, a public enemy, a governmental authority, or by a cause not under the control of the Grantee, and in any such event, the Grantee may adopt reasonable rules and regulations governing the volume of gas which it shall be required to furnish its patrons, or any class of patrons.

110.03 SAFE OPERATION REQUIRED. The systems for the distribution of gas shall be constructed, maintained and operated by the Grantee in such a manner as not to interfere unreasonably with any improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, avenues, alleys, bridges, or other public places, and so as not to interfere with the sewers, drainage or water system of the City.

110.04 CONSTRUCTION AND EXCAVATIONS. Whenever the Grantee, in erecting, constructing or maintaining said distribution systems, shall take up or disturb any pavement or sidewalks, or make any excavations in the streets, avenues, alleys, bridges or public places of the City, said excavations shall at once be refilled and the pavement, sidewalk, or other improvement replaced to the satisfaction of the City officials.

110.05 EXTENSION OF SERVICE. The Grantee shall extend its mains for customers in all cases where bona fide customers apply in writing to be supplied with gas and if said applicants shall sign reasonable contracts for the use of gas for a period of not less than two (2) years, but there shall not be less than one customer for each one hundred (100) feet of main required to be laid to serve said applicants.

110.06 INDEMNIFICATION OF CITY. The Grantee shall hold the City harmless from any and all causes of action, litigation or damages which may arise through or by reason of the construction, reconstruction, maintenance and operation of the systems for the distribution of gas and other construction hereby authorized.

110.07 RATES. The Grantee shall have the right to supply, distribute and sell gas for any and all purposes to the City and to the inhabitants thereof, and to charge therefor such just and reasonable rates as hereafter may be fixed and determined by the rate-making body established under the laws of the State and given jurisdiction thereof.

110.08 SUCCESSORS AND ASSIGNS. All of the provisions of this chapter shall apply to the successors or assigns of the Grantee with the same force and effect as they do to the Grantee.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Right-of-way Granted
111.03 Indemnity

111.04 Restoration of Property
111.05 Extension of Service
111.06 Moving of Buildings

111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power Company, its successors and assigns, herein called the “Grantee,” the right, permission and privilege, for a period of twenty-five (25) years from and after the taking effect of the ordinance codified by this chapter,[†] subject only to the laws of the State as now in force and to the conditions and limitations hereinafter contained, to erect, install, construct, reconstruct, repair, own, operate, maintain, manage and control an electric plant and an electric transmission and distribution system consisting of poles, wires, conduits, pipes, conductors and other fixtures, within the limits of the City necessary, convenient or proper for the production, transmission, distribution and delivery of electric energy to the City and its inhabitants for light, heat and power purposes.

111.02 RIGHT-OF-WAY GRANTED. The Grantee, its successors and assigns are hereby granted (i) the right-of-way in, under, over, along and across the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City and (ii) the right of eminent domain, as provided in Section 364.2 of the Code of Iowa, all for the purpose of erecting, installing, constructing, reconstructing, repairing, owning, operating, maintaining, managing and controlling said electric plant and said electric transmission and distribution system.

111.03 INDEMNITY. The Grantee shall hold the City free and harmless of and from any and all liability, damages, actions and causes of action, caused by or through the neglect or mismanagement of the Grantee in the erection, installation, construction, reconstruction, repair, operation, maintenance, management or control of said electric plant and electric transmission and distribution system.

111.04 RESTORATION OF PROPERTY. The Grantee shall not, during the erection, installation, construction, reconstruction, repair, operation and maintenance of said plant or transmission and distribution system,

[†] **EDITOR’S NOTE:** The ordinance adopting an electric franchise for the City was passed by the Council on May 21, 1991; the franchise was later transferred to Alliant Energy.

unnecessarily impede public travel on the streets, lanes, avenues, sidewalks, alleys, bridges and public grounds of the City, and shall leave all of said streets, lanes, avenues, sidewalks, alleys, bridges and public grounds upon which it may enter for the purposes herein authorized in as good a condition as they were at the date of said entry.

111.05 EXTENSION OF SERVICE. The Grantee will extend service to any customer within the corporate limits of the City in accordance with the Service Standards of the Grantee as filed with the State Utilities Board.

111.06 MOVING OF BUILDINGS. Whenever any person has obtained permission from the City to move any building or structure which may interfere with the poles, wires, or other fixtures of the Grantee, the Grantee shall, upon five (5) days' notice thereof, and at the expense of the person desiring to move such structure, remove such poles, wires or other fixtures as may be necessary to allow the passage of such structure, for a reasonable length of time, upon receipt from such person of satisfactory assurance covering the cost of such removal and replacement and any liability or damage resulting therefrom.

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CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Restrictions

112.03 Moving of Structures or Vehicles

112.04 Indemnification

112.05 Damage – Posting Bills

112.01 FRANCHISE GRANTED. General Telephone Company of the Midwest, a corporation, its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted a franchise for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter[†] to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the City, to adjacent rural areas and to the public at large telephone and telecommunications service, local and long distance, and telecommunication by telephone or other electric signals and for the conduct of a general telephone and telecommunications business therein.

112.02 RESTRICTIONS. Grantee’s rights and privileges in the public ways and grounds of the City shall be exercised as follows:

1. Location of Facilities. Locations of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of the City’s street committee or such other officer or officers as may be designated by the Mayor and Council for that purpose.
2. Interference. The installations of the Grantee shall be so placed and the servicing and operation thereof so performed as not to interfere unreasonably with ordinary travel on the public ways or the ingress to or egress from public or private property.
3. Excavations. Grantee may make excavations in public grounds or ways and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its

[†] **EDITOR’S NOTE:** The ordinance adopting a telephone franchise for the City, was passed and adopted on April 8, 1981. The franchise was later transferred to Iowa Telecom.

facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.

4. Pole Use. Grantee shall permit the City to attach to its poles its fire and/or police wires and apparatus incident thereto – such attachments to be made under the direction and supervision of the Grantee and so made and maintained as not to interfere with the Grantee's use of said poles.

112.03 MOVING OF STRUCTURES OR VEHICLES. Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the City vehicles or structures, other than parade components, of such height or size as to interfere with its poles and/or wires and shall temporarily remove or adjust the same to permit such passage, provided:

1. Notice. Written notice thereof shall be served upon Grantee's agent or manager at Manchester, Iowa, not less than forty-eight (48) hours in advance of the time set for the proposed passage.
2. Grantee is paid in advance the actual cost of such accommodation.

112.04 INDEMNIFICATION. The Grantee shall indemnify the City against loss from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

112.05 DAMAGE – POSTING BILLS. It is unlawful for any person to injure, destroy or deface any property of the Grantee lawfully installed and maintained hereunder or to post bills or signs thereon.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Definitions	113.19 Rates and Charges
113.02 Grant	113.20 Renewal of Franchise
113.03 Other Ordinances	113.21 Conditions of Sale
113.04 Other Authorizations	113.22 Transfer of Franchise
113.05 Conditions of Occupancy	113.23 Books and Records
113.06 Restoration of Public Ways	113.24 Insurance Requirements
113.07 Relocation for the Franchising Authority	113.25 Indemnification
113.08 Relocation for a Third Party	113.26 Notice of Violation
113.09 Trimming of Trees and Shrubbery	113.27 Grantee's Right to Cure or Respond
113.10 Safety Requirements	113.28 Public Hearing
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113.12 Access to Open Trenches	113.30 Revocation
113.13 Required Extensions of the Cable System	113.31 Force Majeure
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113.15 Cable Service to Public Buildings	113.33 Entire Agreement
113.16 Emergency Alert	113.34 Reservation of Rights
113.17 Reimbursement of Costs	113.35 Notice
113.18 Franchise Fee	113.36 Term and Effective Date

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Basic cable” is the lowest priced tier of cable service that includes the retransmission of local broadcast television signals.
2. “Cable Act” means Title VI of the Communications Act of 1934, as amended.
3. “Cable services” means (i) the one-way transmission to subscribers of a) video programming or b) other programming service and (ii) subscriber interaction, if any, which is required for the selection or use of such video programming or any other programming service.
4. “Cable system” means the Grantee’s 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 customers within the service area.
5. “FCC” means Federal Communications Commission or successor governmental entity thereto.
6. “Franchising Authority” means the City of Hazleton, Iowa.
7. “Grantee” means MCC Iowa LLC, or the lawful successor, transferee or assignee thereof.

8. “Gross revenues” means any revenues received from the operation of the cable system to provide cable services in the service area, provided, however, that gross revenues shall not include franchise fees, the FCC user fee, any tax, fee or assessment of general applicability collected by the Grantee from subscribers for pass-through to a government agency.
9. “Person” means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.
10. “Public way” means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the service area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system.
11. “Service area” means the present boundaries of the Franchising Authority and includes any additions thereto by annexation or other legal means, subject to the exceptions in Section 113.13.
12. “Standard installation” is defined as 125 feet from the nearest tap to the subscriber’s terminal.
13. “Subscriber” means a person who lawfully receives cable service of the cable system with the Grantee’s express permission.

113.02 GRANT. The Franchising Authority hereby grants to the Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a cable system in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way such facilities and equipment as may be necessary or appurtenant to the cable system for the transmission and distribution of cable services, data services, information and other communications services or for any other lawful purposes.

113.03 OTHER ORDINANCES. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this franchise. Neither party may unilaterally alter the material rights and

obligations set forth in this franchise. In the event of a conflict between any ordinance and this franchise, the franchise shall control.

113.04 OTHER AUTHORIZATIONS. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the service area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this agreement to any other entity shall cover the entire service area and shall not be on terms and conditions more favorable or less burdensome to the Grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of the franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

113.05 CONDITIONS OF OCCUPANCY. The cable system installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any such public ways.

113.06 RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, the Grantee shall replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

113.07 RELOCATION FOR THE FRANCHISING AUTHORITY. Upon its receipt of reasonable advance written notice, to be not less than ten (10) business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way any property of the Grantee when lawfully required by the Franchising Authority 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 public structures or improvements which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

113.08 RELOCATION FOR A THIRD PARTY. The Grantee shall, on the request of any person holding a lawful permit issued by the Franchising

Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the public way as necessary any property of the Grantee, provided: (i) the expense of such is paid by the person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (ii) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, “reasonable advance written notice” shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

113.09 TRIMMING OF TREES AND SHRUBBERY. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the cable system.

113.10 SAFETY REQUIREMENTS. Construction, operation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable Federal, State and local regulations and the *National Electric Safety Code*.

113.11 UNDERGROUND CONSTRUCTION. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain all of its cable system underground. Nothing contained in this section shall require the Grantee to construct, operate and maintain underground any ground-mounted appurtenances.

113.12 ACCESS TO OPEN TRENCHES. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (1) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (2) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

113.13 REQUIRED EXTENSIONS OF THE CABLE SYSTEM. Grantee agrees to provide cable service to all residences in the service area subject to the density requirements specified in this section. Whenever the Grantee receives a request for cable service from a potential subscriber in a unserved area contiguous to Grantee’s existing distribution facilities where there are at least 10 residences within 1320 cable-bearing strand feet (one-quarter cable mile)

from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its cable system to such subscribers at no cost to said subscribers for cable system extension, other than the published standard/non-standard installation fees charged to all subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the cable system into any portion of the service area where another operator is providing cable service, into any annexed area which is not contiguous to the present service area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

113.14 SUBSCRIBER CHARGES FOR EXTENSIONS OF THE CABLE SYSTEM. No subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of Section 113.13, the Grantee shall only be required to extend the cable system to subscriber(s) in that area if the subscriber(s) are willing to share the capital costs of extending the cable system. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder shall bear the remaining cost to extend the cable system on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the cable system from the tap to the residence.

113.15 CABLE SERVICE TO PUBLIC BUILDINGS. The Grantee, upon request, shall provide without charge a standard installation and one outlet of basic cable service to those administrative buildings owned or occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its cable system. The cable service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The cable service provided shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's cable system or any loss or damage to Grantee's cable system. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of cable service required by this section. The Grantee shall not be required to provide an outlet to such buildings where a non-standard installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary cable system extension and/or non-

standard installation. If additional outlets of basic cable service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

113.16 EMERGENCY ALERT. Any Emergency Alert System (“EAS”) provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the Franchising Authority will be only in accordance with the applicable State and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the Franchising Authority will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including, but not limited to reasonable attorneys’ fees and costs.

113.17 REIMBURSEMENT OF COSTS. If funds are available to any person using the public way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

113.18 FRANCHISE FEE.

1. The Grantee shall pay to the Franchising Authority a franchise fee of three percent (3%) of annual gross revenues (as defined in Section 113.01 of this chapter). In accordance with the Cable Act, the twelve (12) month period applicable under the franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due and payable within 60 days after December 31. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

2. **Limitation on Franchise Fee Actions.** The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due to the Franchising Authority.

113.19 RATES AND CHARGES. The Franchising Authority may regulate rates for the provision of basic cable service and equipment as expressly permitted by Federal law.

113.20 RENEWAL OF FRANCHISE.

1. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's franchise shall be governed by and comply with the provisions of Federal law.
2. In addition to the procedures set forth in the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the franchise prior to expiration of its term.
3. Notwithstanding anything to the contrary set forth in this section, the Grantee and the Franchising Authority agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of Federal law, the Franchising Authority and Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current franchise and the Franchising Authority may grant a renewal thereof.
4. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express renewal provisions of the Cable Act.

113.21 CONDITIONS OF SALE. If a renewal or extension of Grantee's franchise is denied or the franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act. The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its cable system to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the Franchising Authority, the Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to Federal or State law. It is further agreed that the Grantee's

continued operation of its cable system during the twelve-month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

113.22 TRANSFER OF FRANCHISE. The Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the franchise or cable system in order to secure indebtedness.

113.23 BOOKS AND RECORDS. The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee and no more than once annually, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this franchise. Such notice shall specifically reference the section of the franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing cable service in the service area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

113.24 INSURANCE REQUIREMENTS. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the franchise. The Franchising Authority shall be designated as an additional insured and such insurance shall be noncancellable except upon thirty (30) days' prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this section.

113.25 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless and defend the Franchising Authority, 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 in the service area, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

113.26 NOTICE OF VIOLATION. In the event that the Franchising Authority believes that the Grantee has not complied with any material term of the franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

113.27 GRANTEE'S RIGHT TO CURE OR RESPOND. The Grantee shall have thirty (30) days from receipt of the notice described in Section 113.26 to: (i) respond to the Franchising Authority contesting the assertion of noncompliance; or (ii) to cure such default; or (iii) in the event that, by the nature of the default, it cannot be cured within the thirty-day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

113.28 PUBLIC HEARING. In the event that the Grantee fails to respond to the notice as described in Section 113.26 pursuant to the procedures set forth in Section 113.27, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 113.27(iii) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days' prior written notice of such hearing, which specifies the time, place and purpose of such hearing and provide the Grantee the opportunity to be heard.

113.29 ENFORCEMENT. Subject to applicable Federal and State law, in the event the Franchising Authority, after the hearing set forth in 113.28, determines that the Grantee is in material default of any provision of the franchise, the Franchising Authority may:

1. Commence an action at law for monetary damages or seek other equitable relief; or
2. In the case of repeated or ongoing substantial noncompliance with a material term or terms of the franchise, seek to revoke the franchise in accordance with Section 113.30.

113.30 REVOCATION. Should the Franchising Authority seek to revoke the franchise after following the procedures set forth in Sections 113.26 – 113.29, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the franchise at a public meeting. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public meeting, a written notice specifying the time and place of such hearing and stating its intent to revoke the franchise. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the Franchising Authority shall determine whether or not the franchise shall be revoked. If the Franchising Authority determines that the franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of the Grantee's receipt of the determination of the Franchising Authority. The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the franchise in lieu of revocation of the franchise.

113.31 FORCE MAJEURE. The Grantee shall not be held in default under or in noncompliance with the provisions of the franchise or suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's cable system is attached, as

well as unavailability of materials and/or qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the franchise for violations of the franchise where the violation was a good faith error that resulted in no or minimal negative impact on the subscriber within the service area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or subscribers.

113.32 ACTIONS OF PARTIES. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

113.33 ENTIRE AGREEMENT. This franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this franchise shall be mutually agreed to in writing by the parties.

113.34 RESERVATION OF RIGHTS. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws. If at any time during the term of this franchise, Federal, State or local law permits any provider of video programming to provide services such as those provided pursuant to this franchise either without obtaining a franchise from the Franchising Authority or on terms or conditions more favorable than those applicable to the Grantee, then this franchise shall at the sole discretion of the Grantee: a) cease to be in effect; or b) be deemed to expire at a date prior to the original expiration date selected by the Grantee; or c) will be automatically reformed to grant to the Grantee the more favorable terms, benefits and conditions available to the other provider.

113.35 NOTICE. Unless expressly otherwise agreed between the parties, every notice or response required by this franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, c) within five (5) business days after having been posted in the regular mail, or d) the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

City of Hazleton
PO Box 500
111 Third Street NW
Hazleton, IA 50641-0500

The notice of responses to the Grantee shall be addressed as follows:

Government Relations Manager
MCC Iowa, LLC
6300 Council Street NE
Cedar Rapids, IA 52402

With a copy to:

Legal Department
MCC Iowa, LLC
100 Crystal Run Road
Middletown, NY 10941

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this section.

113.36 TERM AND EFFECTIVE DATE. The effective date of this franchise is the date of final adoption by the Franchising Authority as set forth in the Editor's Note below, subject to Grantee's acceptance by countersigning where indicated on the ordinance. This franchise shall be for a term of fifteen (15) years from such effective date.

EDITOR'S NOTE

Ordinance No. 06-06 adopting a cable television franchise for the City was passed and adopted on December 20, 2006.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

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

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

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

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

(Code of Iowa, Sec. 123.30)

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

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

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

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

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Ord. 04-13 – Dec. 04 Supp.)

(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])

120.06 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

(Ord. 04-14 – Dec. 04 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 with 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

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 Registration Required
122.04 Registration Requirements
122.05 Registration Fee

122.06 Transient Merchant Bond
122.07 Time Restriction
122.08 Exemptions
122.09 Charitable and Nonprofit Organizations

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

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

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

122.03 REGISTRATION REQUIRED. No person shall engage in peddling, soliciting or in the business of a transient merchant in the City without first registering with the City as herein provided.

122.04 REGISTRATION REQUIREMENTS. The registration shall be in writing, filed with the Clerk, and shall set forth the following information:

1. The person's name, permanent and local address and business address, if any, driver's license number and vehicle description.
2. The person's employer, if any, and the employer's address, the nature of the business and the length of time such business will be carried on in the City.
3. The names of all people who are to be working within the City and their vehicles descriptions and license numbers.

The registration is valid only for a seven-day period and must be renewed for each seven-day period thereafter.

122.05 REGISTRATION FEE. A registration fee of ten dollars (\$10.00) shall be paid at the time of registration to cover the cost of investigating the facts stated therein.

122.06 TRANSIENT MERCHANT BOND. Any person registering as a transient merchant shall provide to the Clerk evidence that such person has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 TIME RESTRICTION. All peddlers, solicitors and transient merchants shall carry on business only between the hours of 8:00 a.m. and 7:00 p.m.

122.08 EXEMPTIONS. The following are excluded from the application of this chapter.

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

122.09 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa, or political candidates for State, local or Federal office desiring to solicit money or to distribute literature are exempt from the requirements of Sections 122.04 and 122.05. All such organizations or individuals are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, and the period during which such activities are to be carried on.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Issued

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

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

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

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability

insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

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

123.06 PERMIT ISSUED. Upon approval of the application, and filing of bond and insurance certificate, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

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

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

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

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

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

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CHAPTER 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 Bridge Jumping

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

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

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

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

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of

storage, exhibition, sale or offering same for sale, without permission of the Council.

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

B. A statement of the purpose, for whom and by whom the excavation is to be made;

C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of

administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

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

A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

B. Property Damage - \$50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 MAINTENANCE OF PARKING OR TERRACE. It is 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 is not 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 BRIDGE JUMPING. It is unlawful for any person to jump or dive from any bridge in any manner.

(Ord. 10-06 – Jun. 11 Supp.)

CHAPTER 136

SIDEWALK REGULATIONS

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

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

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

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

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

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

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

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

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of

compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

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

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it is 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 are liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

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

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

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

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

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

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

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

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

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

(Code of Iowa, Sec. 392.1)

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

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

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

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

(Code of Iowa, Sec. 364.7)

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

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

[illegible]

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

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

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

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

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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. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

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

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

(Code of Iowa, Sec. 354.26)

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

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

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

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

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

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

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

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

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

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

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

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

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

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

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

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

[†] **EDITOR’S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 150

TREES

150.01 Definition

150.02 Planting Restrictions

150.03 Duty to Trim Trees

150.04 Trimming Trees to be Supervised

150.05 Disease Control

150.06 Inspection and Removal

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

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

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

150.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees, shrubs or other vegetation on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, shrubs or other vegetation, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

150.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 150.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

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

150.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

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

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

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CHAPTER 160

FLOOD PLAIN REGULATIONS

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160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

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

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of the flood plain 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 includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance

Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
- B. The enclosed area is unfinished (not carpeted, 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. “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 Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the community.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:

- A. Built on a single chassis;

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the community’s Flood Insurance Rate Map.
24. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement 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.
25. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
26. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
27. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

29. “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Flood Plain (Overlay) District. The areas within the jurisdiction of the City having special flood hazards are hereby designated as a Flood Plain (Overlay) District and shall be subject to the standards of the Flood Plain (Overlay) District (as well as those for the underlying zoning district). The Flood Plain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Buchanan County and Incorporated Areas, Panel(s) 156 and 157, the City of Hazleton, dated July 16, 2008.
(Ord. 08-01 – Dec. 08 Supp.)

160.04 RULES FOR INTERPRETATION OF FLOOD PLAIN (OVERLAY) DISTRICT. The boundaries of the Flood Plain (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 Zoning Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or

determination made by the Zoning Administrator in the enforcement or administration of this chapter.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 FLOOD PLAIN (OVERLAY) DISTRICT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, the 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 Flood Plain (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 one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the 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. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) 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 that 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 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood 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 Flood Plain (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 (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.10 ADMINISTRATION. The Zoning Administrator shall implement and administer the provisions of this chapter and will herein be referred to as

the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain (Overlay) District.
4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been floodproofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.12 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.

4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.13 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.15 VARIANCES. The 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. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Board of Adjustment 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 flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the 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 purposes of this chapter.
5. Floodproofing measures.

160.18 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, except unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.19 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

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CHAPTER 165

ZONING ORDINANCE

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165.01 TITLE. This chapter shall be known as and may be referred to and cited as the Zoning Ordinance of the City of Hazleton, Iowa.

165.02 PURPOSE. The various use districts which are created by this chapter and the various sections of this chapter are adopted for the purpose, among others, of:

1. Carrying out the Comprehensive Plan for the City;
2. Promoting the public health, safety, morals, comfort and general welfare, and preserving the natural, scenic and historically significant areas of the City;
3. Helping to achieve greater efficiency and economy of land development by promoting the grouping of those activities which have similar needs and are compatible;
4. Encouraging such distribution of population, classification of land use, and distribution of land development throughout the City that will tend to facilitate adequate and economic provision of transportation, communication, water supply, drainage, sanitation, education, recreation, and other public requirements;

5. Lessening or avoiding congestion in the public streets and highways;
6. Protecting against fire, explosion, noxious fumes, flood, panic, and other dangers in the interest of public health, safety, comfort, and general welfare;
7. Helping to ensure that all residential, commercial, and manufacturing structures as well as other types of structures will be accessible to fire fighting and other emergency equipment;
8. Prohibit the formation or expansion of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;
9. Promoting the development of residential neighborhoods which are free of noise, dust, fumes, and heavy traffic volumes in which each dwelling unit is assured of light, air, and open spaces;
10. Helping to prevent land development activities which lead to roadside blight, and to minimize the effects of nuisance producing activities;
11. Promoting and guiding the continued growth and expansion of the City while protecting the natural, economic, historic and scenic resources of the City;
15. Conserving the taxable value of land and buildings throughout the City; and
16. Defining the powers and duties of the Zoning Officer and other bodies as provided herein.

165.03 NATURE. This chapter classifies and regulates the use of land, buildings, and structures within the corporate limits of the City. The regulations contained herein are necessary to promote the health, safety, convenience, morals and welfare of the inhabitants, and to preserve the natural, scenic and historically significant areas of the City by dividing the City into zoning districts and regulating therein the use of the land and the use and size of the buildings as to height and number of stories, the coverage of the land by buildings, the size of yards and open spaces, the location of buildings, and the density of population.

165.04 AUTHORITY. This chapter, in pursuance of the authority granted by the Code of the State of Iowa, Chapter 414, Section 1, shall be known and cited as the “Zoning Ordinance of the City of Hazleton, Iowa.”

165.05 DEFINITIONS. For the purpose of this chapter and in order to carry out the provisions contained herein, certain words, terms, phrases, and illustrations are to be interpreted and defined herein. The word “lot” includes the word “plot” or “parcel” and the word “building” includes “structure.” The following words, terms, and phrases are hereby defined and shall be interpreted as such throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

1. “Accessory building or use” means a building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use.
2. “Alley” means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.
3. “Alterations, structural” means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.
4. “Apartment” means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three (3) or more such rooms or suites.
5. “Auto wash” or “car wash” means a building, or portion thereof, containing facilities for washing more than one automobile; using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices, or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by a customer.
6. “Automobile service station” means any building, structure or land used for the dispensing, sale, or offering for sale at retail of any vehicular fuels, oils, or accessories and in connection with which is performed general vehicular servicing as distinguished from automotive repairs.
7. “Basement” means a story having part but not more than 50% of its height below the average grade of the adjoining ground (as distinguished from a “cellar”). A basement is counted as a story for purposes of height measurement.
8. “Billboard” means a type of sign having more than 100 square feet of display surface and which is either erected on the ground or attached to or supported by a building or structure.
9. “Board of Adjustment” means the Zoning Board of Adjustment of the City.
10. “Boarding, rooming, and lodging house” means a building other than a hotel where, for compensation and by arrangement, meals, lodging, or

lodging and meals are provided for three (3) or more persons on a weekly or monthly basis.

11. “Building” means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

12. “Building height” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

13. “Building length” means greatest horizontal distance measurable between enclosing walls of a building. Building length will usually be measured between the wall facing the building’s front lot line and the wall facing the rear of the lot line.

14. “Building width” means the greatest horizontal distance measurable between the enclosing walls of a building, as measured at right angles from the building length. Building width will usually be measured between the walls facing side lot lines.

15. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than three (3) sides. For the purpose of this chapter, a carport attached to a principal building shall be considered a part of the principal building and subject to all yard requirements therein.

16. “Cellar” means a story having 50% or more of its height below the average grade of the adjoining ground. A cellar is not counted as a story for purpose of height measurement.

17. “Child care center” means any place, home or institution which receives four (4) or more children under the age of sixteen (16) years, and not of common parentage, for care apart from their natural parents, legal guardian, or custodians, when received for regular periods of time for compensation.

18. “Clinic” means a building or buildings used by physicians, dentists, veterinarians, osteopaths, chiropractors, and allied professions for out-patient care of persons or animals requiring such professional service.

19. “Commission” or “Planning Commission” means the Planning and Zoning Commission of the City of Hazleton, Iowa.

20. “Consignment and auction sales operations” means a business which, on an ongoing basis, stores and sells personal property to the public either indoors.

21. “Developmentally disabled” means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

- A. Attributable to mental retardation, cerebral palsy, epilepsy, or autism.
- B. Attributable to any other condition found to be closely related to mental retardation.
- C. Attributable to dyslexia resulting from a disability.
- D. Attributable to a mental or nervous disorder.

22. “Drive-in restaurant or refreshment stand” means any place or premises principally used for the sale, dispensing, or serving of food, refreshment, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on or off the premises.

23. “Driveway” means a private roadway, providing access for vehicles to a parking space, garage, dwelling or other structure.

24. “Dwelling” means any building or portion thereof designed or adapted to serve as a place of abode for one or more persons or one or more households. In this chapter, the terms “dwelling” and “residence” have the same meaning.

25. “Dwelling, condominium” means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate.

26. “Dwelling, detached” means a dwelling which is not attached to any other dwelling by any means. The detached dwelling does not have any roof, wall, or floor in common with any other dwelling unit.

27. “Dwelling, multiple-family” means a residential building designed for occupancy by three (3) or more families or households, with separate housekeeping and cooking facilities for each.

28. “Dwelling, row” means any one of three (3) or more attached dwellings in a continuous row, each dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls. A row dwelling may also be referred to as a “townhouse.”

29. “Dwelling, single-family” means one dwelling unit, designed or adapted for occupancy by not more than one family or household.

30. “Dwelling, two-family” means a detached residential building containing two (2) dwelling units, designed for occupancy by not more than

two families or households, with separate housekeeping and cooking facilities for each.

31. “Dwelling unit” means a dwelling which consists of one or more rooms which are arranged, designed, or used as living quarters for one family or household only. Ordinarily a dwelling unit includes accommodations for sleeping, for eating, for preparing and storing food, for bathing and for other necessary life activities, and is a location where such life activities may be expected to occur.

32. “Easement” means a grant of one (1) or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

33. “Economic base” means the production, distribution and consumption of goods and services within a planning area.

34. “Egress” means an exit.

35. “Eminent domain” means the authority of a government to take, or to authorize the taking of, private property for public use for just compensation.

36. “Environmental Impact Statement (EIS)” means a statement on the effect of development proposals and other major activities which significantly affect the environment.

37. “Essential services” means the erection, alteration, or maintenance, by public utilities, municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health, safety or general welfare, but not including buildings.

38. “Family” means a group of immediate-kindred persons, related by blood, marriage or adoption. A “family” is considered a “household” for purposes of this chapter.

39. “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. A

“family home” does not mean an individual foster care family as licensed under Chapter 237 of the Code of Iowa.

40. “Farm” or “farmland” means a parcel of land used for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock.

41. “Farm animal” means the production, keeping or maintenance for sale, lease or personal use of animals useful to humans, including but not limited to: dairy animals, poultry, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees, fish, and fur animals but not including rabbits kept as pets.

42. “Feasibility study” means an analysis of a specific project or program to determine if it can be successfully carried out.

43. “Feedlot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs, sheep or poultry. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

44. “Fence, residential” means a barrier and/or structure erected in an “R” District intended to provide security, mark a boundary, or as a means of landscaping, with the centerline of said barrier to be located inside the designated property line. Such fence shall be constructed of materials commonly used for landscape fencing such as masonry block, lumber, or chain link, but shall not include corrugated sheet metal, barbed wire or salvage material.

45. “Fence, nonresidential” means a barrier and/or structure erected in a district other than an “R” District and intended to provide security, mark a boundary or a means of landscaping, with the centerline of said barrier to be located inside the designated property line; provided, no such fence is constructed of salvaged material or uses barbed wire closer than six (6) feet to the ground except a fence used purely for agricultural purposes.

46. “Flag lot” means a lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

47. “Flood” (Refer to Chapter 160, Flood Plain Regulations)

48. “Floodplain” (Refer to Chapter 160, Flood Plain Regulations)

49. “Frontage” means that side of a lot abutting on a street; the front lot line.

50. “Garage, private” means an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

51. “Garage, public” means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

52. “Garage, storage” means a building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

53. “Grade” means the degree of rise or descent of a sloping surface.
(See Figure 1.)

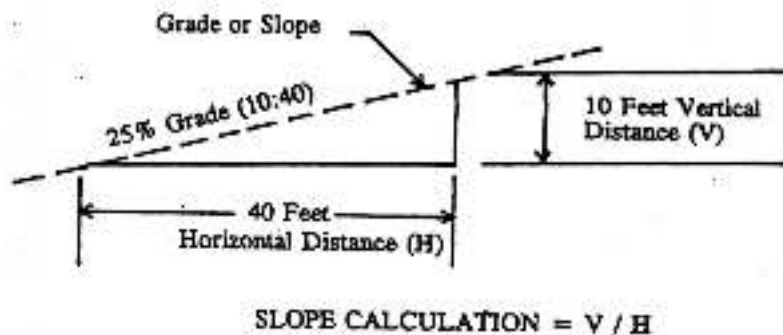


Figure 1 – Grade

54. “Grade, finished” means the final elevation of the ground surface after development. (See Figure 2.)

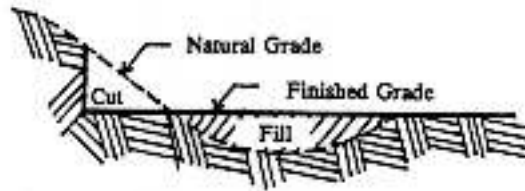


Figure 2 – Cut and Fill Cross Section

55. “Grade, natural” means the elevation of the ground surface in its natural state before manmade alterations. (See Figure 2 above.)

56. “Group care facility” means a facility which provides resident services to nine (9) or more individuals of whom one or more are unrelated. These individuals are persons with disabilities, aged, or undergoing rehabilitation, and are provided services to meet their needs. This category includes any licensed or supervised Federal, State or County health/welfare agencies, such as group homes (all ages), halfway houses, resident schools, resident facilities, and foster or boarding homes.

57. “Historic preservation” means the protection, rehabilitation, and restoration of districts, sites, buildings, structures, and artifacts significant in American history, architecture, archaeology, or culture.

58. “Home occupation” means any gainful occupation or profession conducted entirely within an enclosed dwelling unit which is clearly incidental and secondary to residential occupancy and does not change the character thereof. (See Section 165.30.)

59. “Household” means one or more persons living together in a single dwelling unit, with common access to, and common use of, all areas within the dwelling unit.

60. “Ingress” means access or entry.

61. “Institution” means an organization whose purpose is to promote public welfare or learning, including but not limited to a church, library, public or private school, hospital, or municipal government or other nonprofit or public organization. For the purpose of this chapter, “institution” includes the building, structures or land owned or used for public purposes by such organizations.

62. “Junkyard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, stored or abandoned, baled or packed, disassembled or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

63. “Kennel, dog or cat (commercial)” means any parcel of land on which two or more dogs and/or two or more cats, six months old or older, are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs and/or cats for commercial purposes.

64. “Kennel, dog or cat (private)” means any parcel of land on which no more than two dogs and/or two cats, six months old or older, are kept, however, this does not include breeding, grooming, boarding or other activities associated with the care of dogs and/or cats other than the owner’s dogs and/or cats.

65. “Laundromat” means an establishment providing washing, drying and/or dry cleaning machines on the premises for rental use to the general public for family laundering and/or dry cleaning purposes.

66. “Loading space” means an off-street space or berth used for the loading or unloading of vehicles.

67. “Lot” means, for the purposes of this chapter, a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street 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; of complete lots of record and portions of lots of record; or of portions of lots of record; and (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.

68. “Lot area” means the total area within the lot lines of a lot, excluding any street rights-of-way.

69. “Lot, corner” means a lot abutting upon two or more streets at their intersections.

70. “Lot depth” means the mean horizontal distance between the front and rear lot lines. *(See Figure 3.)*

71. “Lot, double frontage” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot. *(See Figure 3.)*

72. “Lot frontage” means the length of the front line measured at the street right-of-way line. *(See Figure 3.)* With a corner lot, the primary lot frontage of a corner lot or a double frontage lot is the frontage abutting the street which provides the lot’s County E-911 address.

73. “Lot, interior” means a lot other than a corner lot.

74. “Lot line” means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space. *(See Figure 3.)*

75. “Lot line, front” means the lot line abutting a platted street or highway (or, if the street or highway is unplatted the centerline thereof). A lot line abutting upon a public alley is not a front lot line, unless the lot abuts no other public way. If the lot abuts two or more streets, the front lot line is that line abutting the street which provides the lot’s County E-911 address.

76. “Lot line, rear” means the lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. *(See Figure 3.)*

77. “Lot line, side” means any lot line other than a front or rear lot line. *(See Figure 3.)*

78. “Lot, minimum area of” means the smallest lot area established by the Zoning Ordinance on which a use or structure may be located in a particular district.

79. “Lot of record” means a lot which is a part of a subdivision, the plat of which has been recorded at or before the effective date of the Zoning Ordinance in the office of the County Recorder.

80. “Lot width” means the horizontal measure of a lot at the point of its greatest linear extent, measured at right angles to a line measuring lot length. (See Figure 3.)

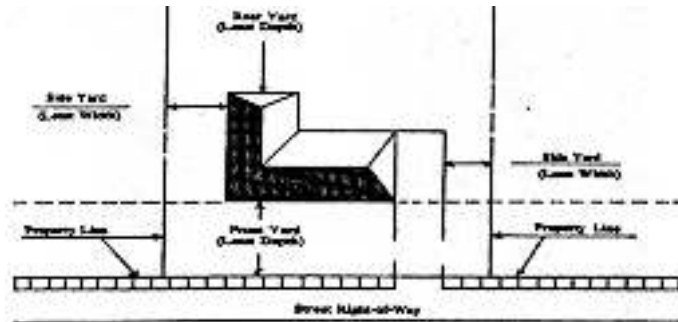


Figure 3 – Yard Definitions

81. “Massage establishment” means any place of business wherein massage (as the practice of a profession, scientifically applied to the patient by massage therapist’s hands) is administered or used.

82. “Manufactured home” means a factory-built, single-family dwelling which is manufactured or constructed under the authority of 42 U.S.C. Section 5403, National Manufactured Home Construction and Safety Standards Act of 1974, 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 it 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. For the purpose of these regulations, a manufactured home built after June 15, 1976, shall bear the seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974. If a structure does not bear the seal of certification, the structure does not qualify as a manufactured home for the purposes of this chapter. For the purpose of these regulations, a manufactured home shall be subject to the same standards as a site-built dwelling.

83. “Manufacturing” means establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

84. “Mobile home” means any dwelling other than a manufactured home or modular home as defined in this chapter which is manufactured or constructed at a site other than the lot to which it is affixed or anchored, and is

so designed, manufactured or constructed as to permit its being conveyed upon the public streets and highways.

85. “Mobile home park” means a site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

86. “Modular home” means a factory-built dwelling, constructed to comply with the Iowa State Building Code for modular factory-built structures and displaying the seal issued by the State Building Commissioner certifying the structure’s compliance with that code. If a structure does not bear the seal of certification, the structure does not qualify as a modular home for the purposes of this chapter. For the purposes of these regulations, once certified by the State, modular homes shall be subject to the same standards as site-built dwellings.

87. “Motor court or motel” means a building or group of buildings used primarily for the temporary residence of motorists or travelers with parking facilities conveniently located to each unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.

88. “Nonconforming use” means a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

89. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept, or provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick or injured.

90. “Overhang” means the part of a roof or wall which extends beyond the facade of a lower wall.

91. “Parking space” means a surfaced area, enclosed in the principal building, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with an accessory building, or an unenclosed area of not less than one hundred eighty (180) square feet, connected to the street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

92. “Place” means an open unoccupied space or a public or private thoroughfare, other than a street or alley, permanently reserved as the principal means of access to abutting property.

93. “Portable building” See bulk requirements Table 1, Notes.
(Ord. 10-05 – Jun. 11 Supp.)

94. “Recreational vehicle” means a vehicular type portable structure without permanent foundation, which can be towed, hauled or driven, and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

95. “Satellite dish antenna” means a satellite receiver, a satellite ground dish antenna, or a satellite rooftop antenna which may or may not be able to rotate to enable the “dish” to aim at different satellites for the purpose of television reception.

96. “Sidewalk” means a paved or surfaced area, paralleling and usually separated from the street, used as a pedestrian walkway.

97. “Sign” means any structure or part thereof or device attached thereto or painted or represented thereon which displays or includes any letter, work, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement. “Sign” includes “billboard” but doesn’t include the flag, pennant or insignia of any nation, state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

98. “Site plan” means a plan (to scale) showing uses and structures proposed for a parcel of land as required by the regulations involved.

99. “Story” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

100. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level.

101. “Street” is a general term used to describe a public right-of-way which provides a channel for vehicular and pedestrian movement and may provide for vehicular and pedestrian access to properties adjacent to it and which may also provide space for the location of utilities (both above and below ground).

102. “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 buildings mobile homes, billboards and poster panels.

103. “Swimming pool” means a tank of water either above or below grade level in which the depth of the container exceeds 24 inches. Swimming

pools, hot tubs, whirlpool baths and tubs, Jacuzzi-type tubs or baths are considered “swimming pools” if they are located outdoors.

104. “Trailer camp or tourist camp” means an area providing spaces for two or more recreational vehicles, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

105. “Warehouse storage facility” means a building or portion of a building for hire where goods are stored.

106. “Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used. *(See Figure 3 following definition of “lot width.”)*

107. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building.

108. “Yard, rear” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard. *(See Figure 3 following definition of “lot width.”)*

109. “Yard, side” means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto. *(See Figure 3 following definition of “lot width.”)*

110. “Zoning Administrator” means the City of Hazleton Building Inspector.

165.06 ESTABLISHMENT OF ZONING DISTRICTS. For the purposes of this chapter, the City is organized into the following zoning districts:

Agricultural District

“A-1” Suburban Agricultural District

Residence Districts

“R-1” Single-Family Residential District

“R-2” Mixed Residential District

“R-3” Mobile Home Park District

Commercial District

“C-1” Commercial District

Manufacturing District

“M-1” Manufacturing District

165.07 ZONING MAP. The location and boundaries of the zoning districts established by this chapter are set forth on the map entitled “Zoning Map” which is located in the City Hall and hereby made a part of this chapter. Said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein. *(See EDITOR’S NOTE at the end of this chapter for ordinances amending the Zoning Map.)*

165.08 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the Zoning Map, the following rules shall apply:

1. Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the centerlines of such streets highways, or alleys.
2. Boundaries shown as following or approximately following platted lot lines or other property lines shall be construed to follow said boundary lines.
3. Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
4. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing waters shall be construed as following the channel centerline of such water courses taken at a mean low water mark.

5. Boundaries shown as following or closely following the City limits of Hazleton shall be construed as following such City limit lines.

6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 of this section 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 the Subdivision Regulations, the Board of Adjustment shall interpret the district boundaries.

8. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrue shall become the classifications of the vacated land.

165.09 ANNEXED TERRITORY. Before a Petition for Annexation of Territory to the City of Hazleton, Iowa, is presented to the Council for action, the Petition shall first be submitted to the Commission. The Commission shall review the Petition and make a recommendation with regard to the appropriate zoning classification for the property set forth in the Petition. In the event the Council approves the annexation of the territory, the property shall be annexed pursuant to the classification recommended by the Commission.

165.10 ZONING AFFECTS EVERY STRUCTURE. Except as hereinafter provided, no building, structure or land shall be erected, constructed, reconstructed, occupied, moved, altered, or repaired, except in conformity with the regulations herein specified for the class of District in which it is located.

165.11 MINIMUM STREET FRONTAGE, LOT OF RECORD, NUMBER OF BUILDINGS ON LOT, AND LOTS NOT SERVED BY SEWER OR WATER.

1. Minimum Street Frontage. No lot shall be created after the adoption of the Zoning Ordinance unless it abuts at least thirty (30) feet on a public street.

2. Lot of Record. In any Residence District on a lot of record at the time of enactment of this chapter, a single-family dwelling may be established regardless of the size of the lot, provided all other requirements of this chapter are complied with. However, where two (2) or more vacant and contiguous substandard recorded lots are held in common ownership, they may be combined into zoning lots and shall thereafter be maintained in common ownership and shall be so joined and developed for the purpose of forming an effective and conforming

zoning lot. For the purpose of this section, the razing of a building on a substandard lot shall constitute the formation of a vacant lot.

3. Lots Not Served by Sewer and/or Water. In any residential district where neither a public water supply or public sanitary sewer are reasonably available, one (1) single-family dwelling may be constructed, provided the otherwise specified lot area and width requirements are a minimum of three (3) acres.

165.12 ACCESSORY BUILDINGS, STRUCTURES AND USES.

1. Time of Construction. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

2. Permit Required. A permit is required for all detached accessory buildings.

3. Height of Accessory Buildings. No detached accessory building or structure shall exceed eighteen (18) feet in height, and the side walls shall not exceed twelve (12) feet in height.

4. Location on Lot. No accessory building or structure shall be erected in any front yard. Accessory buildings or structures shall be no closer than five (5) feet from any main buildings.

5. Maximum Size. The maximum combined size of accessory building(s) is not to exceed 1,000 square feet of combined floor area. Accessory buildings shall not occupy more than thirty percent (30%) of the rear yard with a five foot (5 ft.) minimum from the side and rear yard line; however, this regulation shall not be interpreted to prohibit the construction of a maximum four hundred forty square foot (440 sq. ft.) garage on a minimum rear yard. *(Ord. 05-01 – Dec. 05 Supp.)*

165.13 MORE THAN ONE PRINCIPAL STRUCTURE ON LOT. In any District more than one principal structure, housing a permitted principal use, may be erected on a single lot provided that the area, yard and other requirements are met for each structure as though it were on an individual lot.

165.14 REQUIRED YARD CANNOT BE REDUCED OR USED BY ANOTHER BUILDING. No lot, yard, court, parking area or other open space shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this chapter, and if already less than the minimum required it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another building or structure.

165.15 CONVERSION OF DWELLINGS. The conversion of any building or structure into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or households, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this chapter, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified herein within the section applying to such district.

165.16 YARD AND PARKING SPACE RESTRICTION. No part of 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 yard, open space, off-street parking, or loading space similarly required for any other building.

165.17 TRAFFIC VISIBILITY ACROSS CORNER LOTS. In a Residential, Manufacturing or Agricultural District on any corner lot, no fence, wall, hedge, or other planting or structure that will obstruct vision over two and one-half (2½) feet in height above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines. (See Figure 5.)

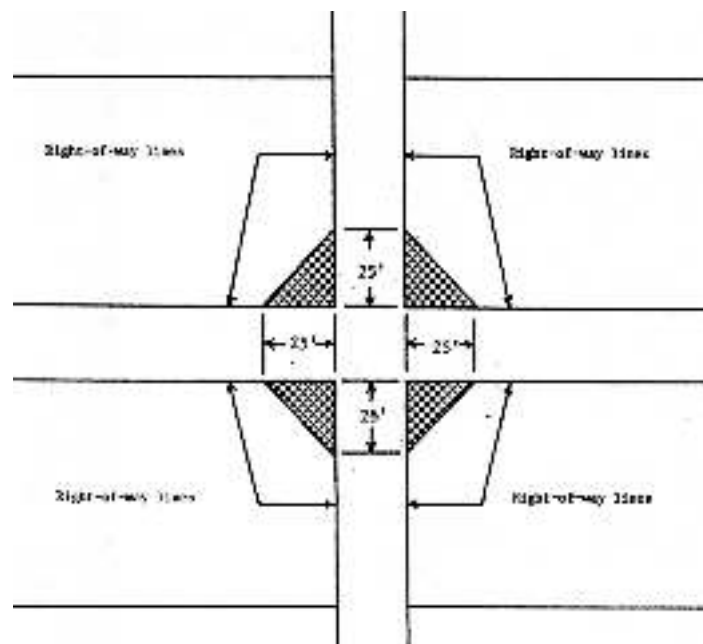


Figure 5 – Traffic Visibility Across Corner Lots

165.18 ESSENTIAL SERVICES. Essential services shall be permitted as authorized and regulated by law and other ordinances of the community, it being the intention hereof to exempt such essential services from the application of this chapter.

165.19 VALIDITY OF EXISTING BUILDING PERMITS. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated uses of any development, building, structure or part thereof, for which the official approvals and required building permits have been granted before the enactment of this chapter, the construction of which, conforming with such plans, shall have been started prior to the effective date of the Zoning Ordinance and the completion thereof carried on in a normal manner within the subsequent six-month period, and not discontinued until completion, except for reasons beyond the builder's control.

165.20 HEIGHT EXCEPTIONS. The height limitations contained in Sections 165.32 through 165.37 do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, or other structures placed above roof level and not intended for human occupancy. *[See also Section 165.41(1).]*

165.21 PUBLIC RIGHT-OF-WAY USE. No portion of the public street or alley right-of-way shall be used or occupied by an abutting use of land or structures for storage or display purposes or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

165.22 FENCES.

1. Fences in an "R" District. Residential fences or landscape features such as sculpture or walls may be erected or constructed with the centerline of said barrier to be located within the property with no portion of fence extending onto adjacent property or right-of-way; provided no such fence in any front, side, or rear yard having street frontage exceeds four (4) feet in height and eight (8) feet in height in the case of side and rear yards not having street frontage. In front and side yards having street frontage, fence materials shall allow for adequate visibility.

2 Fences in Other Districts. Nonresidential fences located in a district other than a "R" District must be located with the centerline of said fence at least six (6) inches from the property line, and cannot exceed eight (8) feet in height.

165.23 PROPOSED USE NOT COVERED BY CHAPTER. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Planning and Zoning Commission for a recommendation as to the proper District in which such use should be permitted and the chapter amended as provided in Section 165.42(10), before a permit is issued for such proposed use.

165.24 ACCESS REQUIRED. Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.

165.25 APPLICATION OF REGULATIONS. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

165.26 PERMITTED USES. Use is permitted in all zoning districts for the purposes of the distribution of essential services. However, the design and placement of said equipment and devices may be reviewed by the Board of Adjustment and approved by the City Council. All other uses are permitted only as listed under each specific Zoning District.

165.27 TEMPORARY USE EXCEPTIONS. The following uses may be permitted by a Temporary Use Exception Permit, valid for ten (10) days or less, subject to the review and approval of the application by the Board of Adjustment.

1. Carnival, circus.
2. Festivals and auctions.

In determining whether a Temporary Use Exception Permit shall be granted the Board of Adjustment shall give consideration to the health, safety, morals and comfort of area residents any adverse impact on land uses, possibility of traffic congestion, harm to public roads, erosion of adjacent property and threat to any source of water supply. Conditions and restrictions as determined necessary to protect the public health, safety, morals and comfort may be attached to the permit. The above events listed do not constitute the complete list, as other similar events of a temporary nature may also be permitted.

165.28 BULK REQUIREMENTS. All new buildings shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or to further conflict with the bulk regulations of this chapter for the district in which such buildings shall be located. Minimum bulk requirements are listed in Table 1 on the following page.

TABLE 1. BULK REQUIREMENTS

District Use	Maximum Building Height ³	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Side Street, Corner Lot	Minimum Rear Yard
A-1							
SINGLE FAMILY	35 feet or 3 stories	3 acres	200 feet	58 feet	35 feet	58 feet	58 feet
OTHER PERMITTED USES	---	3 acres	200 feet	58 feet	35 feet	58 feet	58 feet
R-1							
SINGLE FAMILY	35 feet or 3 stories	10,000 square feet	80 feet	25 feet	8 feet	25 feet	30 feet
NOT SERVED BY PUBLIC WATER and/or PUBLIC SEWER	35 feet or 3 stories	30,000 square feet	80 feet	25 feet	8 feet	25 feet	30 feet
OTHER PERMITTED USES	---	30,000 square feet	160 feet	40 feet	16 feet	40 feet	40 feet
R-2							
SINGLE FAMILY	35 feet or 3 stories	7,000 square feet	66 feet	25 feet	5 feet	25 feet	25 feet
TWO FAMILY	35 feet or 3 stories	8,000 square feet	70 feet	25 feet	7 feet	25 feet	25 feet
MULTI-FAMILY (3-PLEX OR LARGER)	35 feet or 3 stories	8,000 square feet	65 feet	20 feet	10 feet	25 feet	35 feet
OTHER PERMITTED USES	---	10,000 square feet	80 feet	30 feet	7 feet	40 feet	30 feet
R-3							
PER UNIT	---	4,000 square feet	40 feet	20 feet	10 feet	---	10 feet
MOBILE HOME PARK	25 feet	5 acres	360 feet	40 feet	40 feet	40 feet	40 feet
C-1	35 feet or 3 stories	---	---	25 feet ¹	10 feet ¹	---	25 feet ¹
M-1	---	---	---	25 feet	10 feet	25 feet	25 feet
ACCESSORY BUILDINGS FOR R-1, R-2, & R-3 DISTRICTS ^{2,3,5}	4	---	---	---	5 feet	Same as permitted uses	5 feet

NOTES:

1 - None required except adjoining any "R" District, in which case not less 15 feet.

(Ord. 12-01 – Dec. 13 Supp.)

2 - The maximum combined size of accessory building(s) is not to exceed 1000 square feet of combined floor area. Accessory buildings shall not occupy more than 30% of the rear yard with a 5 foot minimum side and rear yard line requirement; however, this regulation shall not be interpreted to prohibit the construction of a maximum 440 square foot garage on a minimum rear yard.

3 - Maximum height shall be measured by either the designated footage or by stories, whichever is lower.

4 - 18 feet in height and the side walls not to exceed 12 feet in height.

(Ord. 05-01 – Dec. 05 Supp.)

5 – Accessory buildings that are larger than 120 square feet must have permanent frost-free footings or a 4-inch thick floating cement slab under the complete building. Any buildings 120 square feet or smaller are considered portable buildings and do not require footings or a slab.

(Ord. 12-01 – Dec. 13 Supp.)

165.29 DWELLING, MINIMUM SIZE. No building or structure in the City shall be designed, adapted, constructed or used for a dwelling unless all that portion of such building or structure is fully 24 feet in length at the longest extent of the enclosure and 24 feet in width at the widest extent of the enclosure. No tent, cabin or trailer may be occupied as a dwelling. No individual unit may be occupied by a household numbering more than four members, unless such household is a family.

165.30 HOME OCCUPATION STANDARDS To qualify as a permitted use in any district, any and all home occupations must satisfy all of the following criteria:

1. Use of the property for home occupation must be clearly incidental and secondary to the use of the dwelling unit as a residence (as shown by comparative amounts of square footage used for home occupation and for living space).
2. The occupation must be conducted entirely within an existing dwelling unit or entirely within an accessory building.
3. The occupation must be conducted by a member or members of the family or household residing within the dwelling unit, and employing no more than two nonresident employees.
4. The occupation must show no evidence of its existence on the premises, perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbance or excessive generation of customer traffic.
5. Water, sewer, and waste disposal systems shall be subject to approval of the City.
6. Customer parking shall be provided and be as inconspicuous as possible on the premises.
7. Only one identification sign may be displayed upon the lot, subject to the following requirements.
 - A. The sign may not display more than the name of the occupant and the nature of the occupation.
 - B. The sign shall not contain more than 6 square feet and shall be no more than 2 feet high or more than 3 feet in width.
 - C. The sign shall be non-illuminated.

165.31 WAREHOUSE RESTRICTIONS. All warehouses within the City shall store only non-toxic, non-combustible materials. No warehouse may store

agricultural products, such as grain, hay, livestock or manure. No warehouse may offer any product or merchandise for direct sale to the general public, nor shall any processing of stored materials take place in any warehouse. No warehouse may by its activities cause any noxious or offensive odors or noise.

165.32 “A-1” SUBURBAN AGRICULTURAL DISTRICT.

1. General Description. The “A-1” Suburban Agricultural District is intended to provide regulations for land situated on the fringe of the urban area that is used primarily for agricultural purposes but which will be undergoing urban development in the near future. Many tracts in this District will be in close proximity to developing residential, commercial, or industrial uses. The purpose of this district is to restrict the permitted uses to those which are compatible with both agricultural uses and the developing residential, commercial, or industrial use.

2. Principal Permitted Uses. Property and buildings in an “A-1” Suburban Agricultural District shall be used only for the following purposes:

- A. Agricultural crops only. Other agricultural uses, see paragraph 3(I) of this section.
- B. Single-family dwellings.
- C. Churches and temples.
- D. Public schools, elementary, junior high, and high schools.
- E. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
- F. Public buildings; public, semi-public parks, playgrounds or community buildings.
- G. Golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
- H. Accessory uses and buildings which are customarily incidental to any of the above stated uses.
- I. Private dog or cat kennels.

3. Special Exceptions. The following special exceptions may be applied for pursuant to Section 165.42(9). The Board of Adjustment may approve, deny or table an application in accordance with provisions contained therein:

- A. Hospitals; rest, nursing, convalescent, and family homes; homes for children and aged; off-street parking and yards comparable for other institutional uses to be provided under its section.
- B. Public utilities.
- C. Cemetery or mausoleum.
- D. Recreational development for seasonal or temporary use.

- E. Roadside stand for sale of produce raised on the premises.
- F. Commercial dog and/or cat kennels.
- G. Riding stables.
- H. Greenhouses and plant nurseries operated for commercial purposes.
- I. Dairy farming, livestock farming, poultry farming, general farming and other agriculture activities.
 - 4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.28.
 - 5. Sign Regulations. Regulations shall be as specified in Section 165.38.

165.33 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT.

1. General Description. The “R-1” is the most restrictive Residential District. The principal use of land is for single-family dwellings and related recreational, religious and educational institutions and facilities normally required to provide an orderly and attractive residential area. These residential areas are intended to be defined and protected from encroachment of uses which are not appropriate to a residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

2. Principal Permitted Uses. Property and buildings in an “R-1” Single-Family Residential District shall be used only for the following purposes:

- A. Single-family detached dwellings.
- B. Duplexes.
- C. Family homes, as defined herein.
- D. Churches and temples.
- E. Public schools, elementary, junior high and high schools.
- F. Parochial or private schools having similar curricula as public schools and having no rooms used regularly for housing or sleeping purposes.
- G. Public and semi-public parks, and playgrounds.
- H. Home Occupations.
- I. Accessory uses which are customarily incidental to any of the above stated uses but not involving the conduct of business other than a home occupation. Accessory uses shall include private garages and carports, private swimming pools, and private greenhouses not operated for commercial purposes.
- J. Private dog and/or cat kennels.

3. Special Exceptions. The following special exceptions may be applied for pursuant to Section 165.42(9). The Board of Adjustment may approve, deny or table an application in accordance with provisions contained therein:

- A. Hospitals, family homes, nursing homes, convalescent homes, public buildings, and/or community buildings with the same off-street parking and yards as those required for other institutional uses under this chapter.

- B. Essential services.
- C. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
- D. The taking of boarders or the leasing of rooms by a resident family, provided total number does not exceed two per building.
- E. Lots of less than twenty (20) acres but larger than three (3) acres may allow for accessory structures of maximum combined size not to exceed 1500 square feet of combined floor area and a height to the peak not to exceed a maximum of eighteen (18) feet.

(Ord. 05-01 – Dec. 05 Supp.)

- 4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.28.
- 5. Sign Regulations. Regulations shall be as specified in Section 165.38.
- 6. Prohibitions. Garage sales, yard sales, flea markets, auctions or other similar methods of selling tangible personal property shall not extend longer than two consecutive days in a calendar year. On any particular lot, such sales may occur no more than a total of four days in any calendar year. Nothing in this chapter shall be construed to broaden the prohibitions set forth in this section.

165.34 “R-2” MIXED RESIDENTIAL DISTRICT.

1. General Description. The “R-2” Mixed Residential District is to provide for two-family and medium high population density. The principal use of land may range from single-family to multiple-family dwelling units. Certain uses are permitted which are more compatible functionally with intensive residential uses than with commercial uses. The recreational, religious and educational institutions and facilities normally required to provide an orderly and attractive residential area are included. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.

2. Principal Uses Permitted. Property and buildings in an “R-2” Mixed Residential District shall be used only for the following purposes:

- A. Any use permitted in the “R-1” Single-Family Residential District.
- B. Multiple, condominium and row dwellings.
- C. Boarding and lodging houses.
- D. Religious and educational institutions.
- E. Family homes.
- F. Private club or lodge excepting one where the major activity is a service customarily carried on as a business.
- G. Private dog and/or cat kennels.
- H. Accessory uses and buildings which are customarily incidental to any of the above stated uses.

3. Special Exceptions. The following special exceptions may be applied for pursuant to Section 165.42(9). The Board of Adjustment may approve, deny or table an application in accordance with provisions contained therein:

- A. Private kindergartens and day nurseries and child care centers.
- B. Hospitals, family homes, nursing homes, convalescent homes, public buildings, and/or community buildings with the same off-street parking and yards as those required for other institutional uses under this chapter.
- C. Essential services.
- D. Mortuary or funeral homes.
- E. Medical and dental clinics.

- F. Group care facilities.
- G. Warehouse storage facility.
 - 4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.28.
 - 5. Sign Regulations. Regulations shall be as specified in Section 165.38.

165.35 “R-3” MOBILE HOME PARK DISTRICT.

1. General Description. The “R-3” Mobile Home District is intended and designed for high density mobile home development. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of each use permitted in the district.
2. Principal Uses Permitted. Property and buildings in an “R-3” Mobile Home District shall be used only for the following purposes:
 - A. Mobile home parks.
 - B. Private dog and/or cat kennels.
 - C. Accessory uses and buildings which are customarily incidental to the above stated uses, but not involving the conduct of business.
3. Special Use Exceptions. Any other uses deemed appropriate by the Board of Adjustment to be appropriate to this district and incidental to the uses listed in subsection 2 may be approved by the Board, in its discretion, following its review of application for a special use permit as defined in Section 165.42(9).
4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.28.
5. Sign Regulations. Regulations shall be as specified in Section 165.38.
6. Use Limitation. Notwithstanding any other provision of this Code of Ordinances, this section shall govern the location, placement and use of mobile homes within the City. Mobile homes used as dwellings or for any other use may be located only within an R-3 Mobile Home District. Mobile homes validly placed or located within other districts prior to enactment of this chapter may continue as a nonconforming use subject to Section 165.39 and 165.40 of this chapter.
(Ord. 09-06 – Jun. 11 Supp.)

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165.36 “C-1” COMMERCIAL DISTRICT.

1. General Description. The “C-1” Commercial District is intended to accommodate the needs of the Central Business District allowing a wide range of services and good permitted for consumer daily and occasional shopping and service needs. *(Ord. 12-01 – Dec. 13 Supp.)*

2. Principal Permitted Uses. Property and buildings in a “C-1” Commercial District shall be used only for the following purposes:

- A. Antique shops.
- B. Apartments above first story level of a store or shop with off-street/on-site parking.
- C. Apparel shops.
- D. Art shops.
- E. Automobile accessory and parts stores.
- F. Bakeries, bakery outlets or catering service, retail sales only.
- G. Banks, savings and loan associations, and similar financial institutions.
- H. Barbershops and beauty parlors.
- I. Bicycle shops sales and repair.
- J. Bowling alleys.
- K. Business offices, professional offices, and studios.
- L. Business and vocational schools.
- M. Camera stores.
- N. Carpenter and cabinet making shops.
- O. Car wash with truck bay.
- P. Churches and temples.
- Q. Clothes cleaning and laundry pickup stations.
- R. Clothing stores.
- S. Collection office of public utility.
- T. Consignment and auction sales operations, but excluding the sale of livestock, fish, fowl or animals of any kind. *(Ord. 13-03 – Dec. 13 Supp)*
- U. Confectionery stores, including ice cream or snack bars.
- V. Dairy stores, retail only.

- W. Dance studio.
- X. Delicatessens.
- Y. Dental and medical clinics.
- Z. Department stores.
- AA. Drug stores.
- BB. Dry goods stores.
- CC. Florist shops.
- DD. Furniture stores.
- EE. Gift shops.
- FF. Grocery stores, frozen food lockers, including supermarkets.
- GG. Hardware stores.
- HH. Hobby shops.
- II. Household appliances, sale and repair.
- JJ. Jewelry stores and watch repair shops.
- KK. Launderettes, coin-operated dry cleaning establishments, and dry-cleaning or pressing establishments using only non-flammable solvents.
- LL. Lawn mower repair shops.
- MM. Locker plant for storage and retail sales only.
- NN. Leather goods store.
- OO. Medical and dental clinics.
- PP. Music stores and music studios.
- QQ. Office supply shops.
- RR. Paint and wallpaper stores.
- SS. Personal service and repair shops.
- TT. Pet shops.
- UU. Photographic studios, printing and developing establishments.
- VV. Plumbing and heating shops.
- WW. Post offices.
- XX. Printing and lithographing shops.
- YY. Publishing and engraving establishments.
- ZZ. Radio and television sales and repair shops.

AAA. Restaurants and taverns.

BBB. Shoe and hat repair shops.

CCC. Sporting goods stores.

DDD. Tailor and dressmaking shops.

EEE. TV and appliance repair and sales.

FFF.

Tattoo Parlors
(Ord. 13-02 – Dec. 13 Supp.)

GGG. Theaters.

HHH. Toy stores.

III. Upholstering shops.

JJJ. Variety stores.

KKK. Video/movie film and equipment rental and sales.

LLL. Private dog and/or cat kennels.

MMM. Accessory uses and buildings which are customarily incidental to the above stated uses.

NNN. Any other use determined by the Board of Adjustments to be of the same general character as the foregoing permitted uses but not including any use that may become obnoxious or offensive in the district.

(Ord. 13-02 – Dec. 13 Supp.)

(Former HHH Deleted and Remaining Paragraphs Renumbered by Ord. 06-05 – Dec. 06 Supp.)

(T added and Remaining Paragraphs Renumbered by Ord. 13-03 – Dec. 13 Supp.)

3. Special Exceptions. The following special exceptions may be applied for pursuant to Section 165.42(9). The Board of Adjustment may approve, deny or table an application in accordance with provisions contained therein:

A. Agricultural feed and seed sales, but excluding grinding, mixing, and blending.

B. Animal hospitals and veterinary clinics.

C. Apartments on first and second story level with off-street/on-site parking.

D. Automobiles, trailer, motorcycle, boat, farm implement and mobile home establishments for display, hire, rental and sales (including sales lots). This paragraph shall not be construed to include automobile, tractor or machinery wrecking and rebuilding and used parts yards.

(Ord. 09-06 – Jun. 11 Supp.)

- E.* Automobile, trailer, motorcycle, boat and farm implement service/repair establishments.
 - F.* Billiard parlors and pool halls.
 - G.* Book stores.
 - H.* Dance halls.
 - I.* Drive-in restaurants.
 - J.* Funeral homes and mortuaries.
 - K.* Liquor stores.
 - L.* Lumber yards.
 - M.* Private clubs and lodges.
 - N.* Public buildings, parks, playgrounds and community buildings.
 - O.* Public utilities and offices.
 - P.* Rental storage buildings.
 - Q.* Roadside stands for the sale of fresh fruits, vegetables, nursery stock and plant food.
 - R.* Service stations.
 - S.* Sheet metal shops.
 - T.* Restaurants, cafes and nightclubs.
 - U.* Wholesale display and sales rooms and offices.
 - V.* Welding and machine shops.
 - W.* Commercial dog and/or cat kennels.
- 4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.28.
 - 5. Sign Regulations. Regulations shall be as specified in Section 165.38.

165.37 “M-1” MANUFACTURING DISTRICT.

1. General Description. The “M-1” Manufacturing District is intended primarily for the conduct of manufacturing, assembling, and fabrication. It is designed to provide an environment suitable for industrial activities that do not create appreciable nuisances or hazards. The uses permitted in this District make it most desirable that they be separated from residential uses.
2. Principal Permitted Uses. Property and buildings in an “M-1” Manufacturing District shall be used only for the following purposes:
 - A.* Bottling works.
 - B.* Cleaning and dyeing plants.
 - C.* Creamery and/or dairy processing plant.
 - D.* Truck or bus garage and repair shop.
 - E.* Farm implement, mobile home and manufactured home sales, service, repair and assembly. *(Ord. 09-06 – Jun. 11 Supp.)*
 - F.* Freight terminal and grain elevator.
 - G.* Building material sales and storage.
 - H.* Wholesaling and warehousing.
 - I.* Public utilities.
 - J.* Automobile body repair and paint shop.
 - K.* Clothing manufacture.
 - L.* Welding shop.
 - M.* Light manufacturing and assembly plants.
 - N.* Consignment and auction sales operations, but excluding the sale of livestock, fish, fowl or animals of any kind. *(Ord. 13-03 – Dec. 13 Supp.)*
 - O.* Brick and clay products and central mixing and proportioning plant.
 - P.* Flour, feed and grain milling and storage.
 - Q.* Tool and die shops and machine shops.
 - R.* Structural iron and steel fabrication.
 - S.* Machinery manufacture.
 - T.* Mini-steel plants.
 - U.* PVC products manufacturing.

- V. Private dog and/or cat kennels.
- W. Accessory uses and buildings which are customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
- X. Any other use determined by the Board of Adjustments to be of the same general character as the foregoing permitted uses but not including any use that may become obnoxious or offensive in the district. *(Ord. 13-02 – Dec. 13 Supp.)*

- 3. Special Exceptions. The following special exceptions may be applied for pursuant to Section 165.42(9). The Board of Adjustment may approve, deny or table an application in accordance with provisions contained therein:
 - A. Contractor's shop and storage yard enclosed by presentable solid fence 8 feet high.
 - B. Commercial dog and/or cat kennel.
 - C. Carnivals, circuses, fairs, and road shows.
 - D. Radio and television broadcasting tower or station.
 - E. Accessory uses and buildings which are customarily incidental to the above stated permitted uses and including temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
 - F. Junkyards, including automobile wrecking and/or salvage, enclosed by a presentable opaque, solid fence 8 feet high.
- 4. Height Regulations, Lot Area, Frontage and Yard Requirements. Regulations shall be as specified in Section 165.41(1).
- 5. Sign Regulations. Regulations shall be as specified in Section 165.38.

165.38 SIGN REGULATIONS. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use ceases, they shall be removed promptly and the surrounding area restored to a condition free from refuse and debris. All temporary, illuminating, flashing, portable signs must secure a sign placement permit from the City Clerk, allowable only in commercial and industrial/manufacturing districts and valid for a maximum time limit of seventy-two (72) hours. Such permit will not be renewed to the same person or business for fourteen (14) days. The 14-day period is calculated from the first day as written on the sign placement permit.

1. Agricultural Districts. In an Agricultural District the following signs are permitted:

- A. Name plates not to exceed one (1) square foot in area.
- B. Church or public bulletin boards.
- C. Temporary signs advertising the lease or sale of the premises, not to exceed twelve (12) square feet in area.
- D. Bulletin boards and signs pertaining to the lease, hire or sale of a building or premises, or signs pertaining to any material that is grown or treated within the district; provided, however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed or stored.

2. Residential Districts. In a Residential District the following signs are permitted:

- A. Name plates not to exceed one (1) square foot.
- B. Church or public bulletin boards.
- C. Temporary sign advertising the lease or sale of the premises not to exceed twelve (12) square feet in area.
- D. Facilities, other than single-family dwellings, normally required to provide an attractive “R-1” Residential area may illuminate signs, bulletin boards and name plates only with indirect not-intermittent light that do not exceed sixty (60) watts.

E. Signs for home occupations not exceeding five (5) square feet in area.

F. Signs must not project more than four (4) feet above the roof line.

3. Commercial Districts. The following signs are permitted in all Commercial Districts:

- A. Signs permitted in the Residential Districts.

B. Any exterior sign shall pertain only to a use conducted within the building and be integral or attached thereto. No sign may project over any street line (back of curb) or extend more than six (6) feet over any building line whether fixed to the building or any other structure. In no case shall any sign project more than four (4) feet above the roof line, and the total area of all signs pertaining to the business conducted in any building shall not exceed two (2) square feet in area for every lineal foot occupied by the front of the building displaying such sign, but not to exceed lot frontage. Where the lot adjoins an "R" District, the exterior sign shall be attached flat against the building and shall not face the side of the adjacent lot located in the "R" district; however, this does not apply to the side of the building which is opposite that side adjoining the "R" District.

C. One "post sign" or business identification sign, provided, however, that said post sign shall not have a surface area of greater than forty (40) square feet on any one side thereof, and no more than two sides of post sign shall be used for advertising purposes. The bottom of said post sign or surface area thereof shall not be less than twelve (12) feet above the sidewalk or above the surface of the ground upon which it is erected, and the total vertical dimension of twelve (12) feet or horizontal dimension of said sign shall not be greater than seven (7) feet. Total maximum height of said sign shall not be over twenty-four (24) feet. The term "post sign" as herein defined shall not be deemed to include any sign advertising the trade-name, merchandise or service of any person, firm, or corporation who pays a consideration for the privilege of placing, maintaining, or using any portion of said sign to the owner or occupant of the premises upon which said sign is erected or placed. Said "post sign" shall not extend over street right-of-way lines or otherwise obstruct or impair the safety of pedestrians or motorists.

4. Manufacturing Districts. All signs allowed within the Commercial District are allowed within the Manufacturing District.

5. Outdoor Advertising Signs. In all districts where permitted, signs shall be set back from the proposed right-of-way line of any State or Federal highway, any major City thoroughfare so designated by the Official Major Street Plan, and from the right-of-way line of any other street or highway. Signs erected in a manner as to obstruct free and clear vision of streets, alleys or driveways or erected, designed or positioned to interfere with, obstruct, or be confused with any authorized traffic sign, signal or device which may mislead or confuse traffic shall be permitted in all zoning districts. No sign shall be permitted which faces the front or side lot line of any lot in any "R" Residential District used for residential purposes within one hundred (100) feet of such lot lines, or which faces any public parkway, public square or entrance to any public park, public or parochial school, church, cemetery or similar institution, within three hundred (300) feet thereof, unless said sign is a single-faced wall

(fascia) sign which is parallel to its supporting wall and not extending more than twelve (12) inches from the wall.

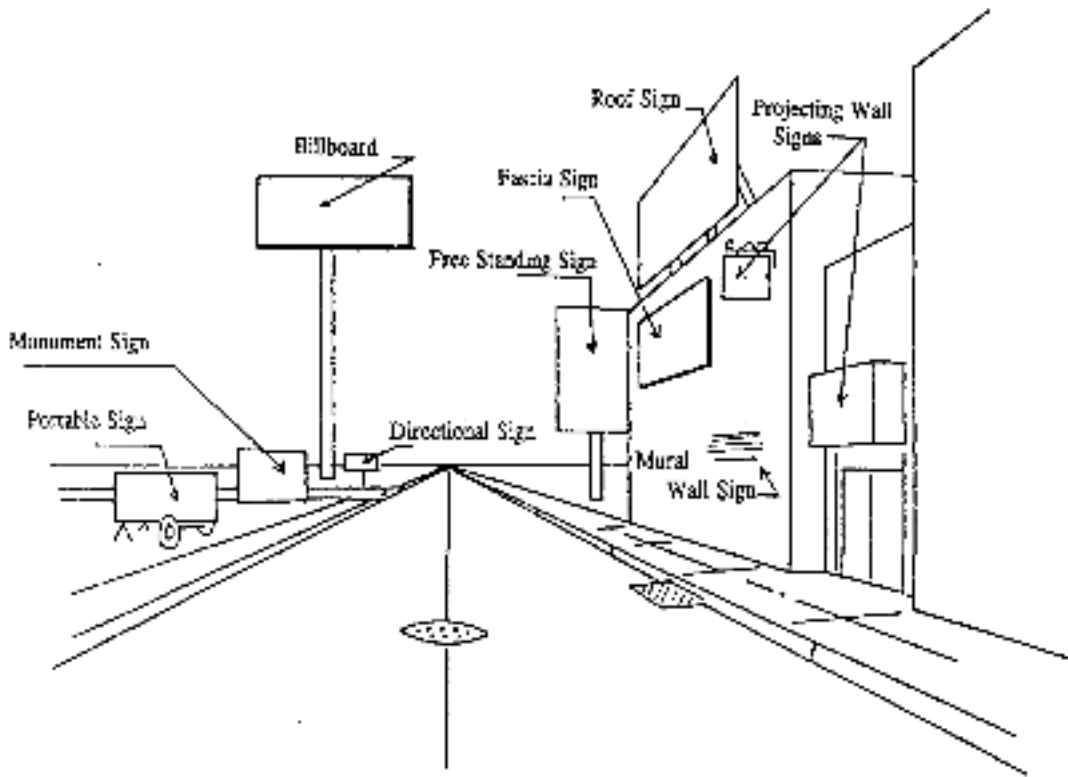


Figure 6 – Sign Types

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165.39 NONCONFORMING BUILDINGS AND STRUCTURES.

1. General. A nonconforming building or structure existing at the time of adoption of this chapter may be continued, maintained, and repaired, except as otherwise provided in this section. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe.
2. Alteration or Enlargement of Building and Structures. A nonconforming building or structure shall not be added to or enlarged in any manner unless said building or structure including additions and enlargements, is made to conform to all the regulations of the District in which it is located; provided, however, if a building or structure is conforming as to its use, but nonconforming as to yards or height or off-street parking space, said building or structure may be enlarged or added to provided that the enlargement or addition complies with the yard and height and off-street parking requirements of the District in which said building or structure is located. No nonconforming building or structure shall be moved in whole or in part to another location on the lot unless every portion of said building or structure is made to conform to all of the regulations of the District in which it is located.
3. Building Vacancy. A building or structure or portion thereof which is nonconforming as to use, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the District in which it is located.
4. Destruction of Nonconforming Building or Structure. Any nonconforming building or structure which has been or may be damaged by fire, flood, explosions, earthquake, war, riot or any other act of God, may be reconstructed and used as before if it can be done within twelve (12) months of such calamity, unless damaged more than 50% of its fair market value, as determined by the Board of Adjustment, at the time of the damage, in which case reconstruction shall be in accordance with the provisions of this chapter.
5. Change of Uses. A nonconforming use of a conforming building or structure may be expanded or extended into any other portion of the structure provided the structure was manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Ordinance, but no such use shall be extended to occupy any land outside such building. If such a nonconforming use, or a portion thereof, is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall be in conformity with the

regulations of the district in which such building or structure is located. A vacant or partially vacant conforming building or structure may be occupied by a nonconforming use for which the building or structure was designed or intended if occupied within a period of one (1) year after the effective date of this chapter, but otherwise it shall be used in conformity with the regulations of the district in which it is located. The use of a nonconforming building or structure may be changed to a use of the same or a more restricted district classification; but where the use of nonconforming building or structure is changed to a use of a more restricted district classification it thereafter shall not be changed to a use of a less restricted district classification; provided, however, that a building or structure that is nonconforming at the time of adoption of this chapter is not in violation. For the purpose of this subsection only, the "R-1" District shall be considered the most restrictive and the "M" District the least restrictive district.

6. Swimming Pool Fences. The lawful use of a swimming pool existing at the effective date of the Zoning Ordinance may be continued, provided that twelve (12) months after the effective date of this Zoning Ordinance all nonconforming pools shall conform to Section 165.22.

165.40 NONCONFORMING USES OF LAND. A nonconforming use of land, where the aggregate value of all permanent buildings or structures is less than five hundred dollars (\$500.00), existing at the time of adoption of this chapter, may be continued three (3) years therefrom, provided that:

1. Said nonconforming use may not be extended or expanded, nor shall it occupy more area than was in use on the effective date of this chapter.
2. If said nonconforming use or any portion thereof is discontinued for a period of six (6) months, or changed, any future use of such land, or change in use, shall be in conformity with the provisions of the district in which said land is located.

165.41 ADDITIONAL REQUIREMENTS, EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS. The requirements and regulations specified elsewhere in this chapter shall be subject to additional requirements, exceptions, modifications, and interpretations contained in this section.

1. Height and Size Limits. Height limitations stipulated elsewhere in this chapter shall not apply in the following situations:

A. To barns, silos, or other farm buildings or structures on farms provided these are not less than fifty (50) feet from every lot line; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, masts, and aerials; to parapet walls extending not more than four (4) feet above the limiting height of the building. However, if in the opinion of the Zoning Administrator, such structure would adversely affect adjoining or adjacent properties, such greater height shall not be authorized except by the Board of Adjustment.

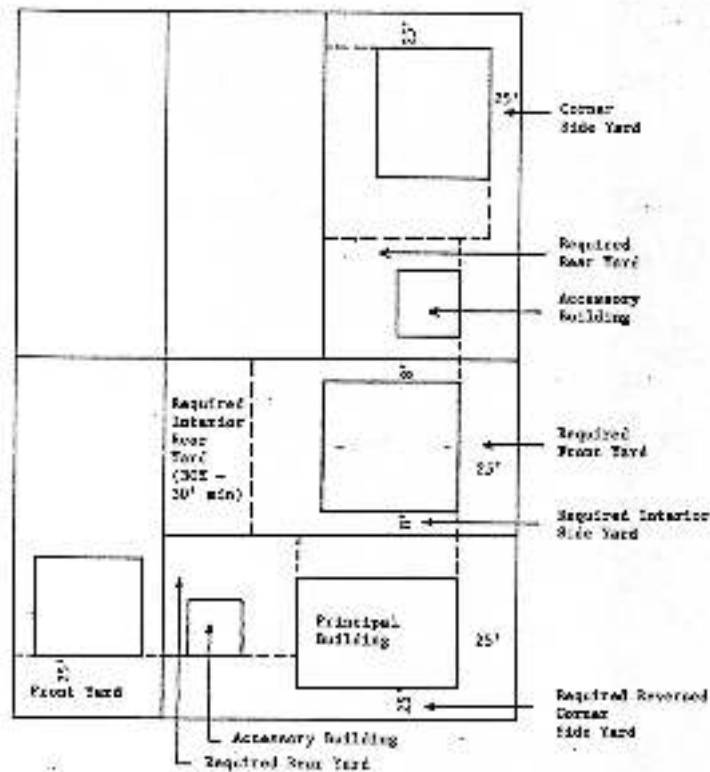
B. To bulkheads, conveyors, derricks, elevator penthouses, water tanks, monitors and scenery lofts; to monuments, fire, hose and cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height than specified, such may be authorized by the Board of Adjustment.

2. Front Yard Exceptions and Modifications.

A. Front yard requirements do not apply to bay windows or balconies that do not project more than two (2) feet into the front yard.

B. In any district where the average depth of two (2) or more existing front yards on lots within two hundred (200) feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed, front yards may be varied. The depth of the front yard on such lot shall not be less than the average depth of said existing front yards or the average depth of the two (2) lots immediately adjoining or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of the front yard on a lot in any "R" District shall be at least ten (10) feet and need not exceed sixty (60) feet.

C. For the purpose of determining lot width, that portion of a flag lot used for ingress and egress shall not be included as a part of the required front yard.



**Figure 7 – Corner & Reverse Corner Side Yards
R-1 Residence District**

Note 1—See Section 165.12 ACCESSORY BUILDINGS, STRUCTURES AND USES.

(Ord. 05-01 – Dec. 05 Supp.)

3. Side Yard Exceptions and Modifications.
 - A. Along any district boundary line, any abutting side yard on a lot in the less restricted district shall have a least width equal to that required in the more restricted district. Where a building is proposed for a lot in the “M” District, and a line of such lot abuts an “R” District, the side yard in the “M” District shall be increased by three (3) feet for each foot that the proposed building will exceed the height limit of the said “R” District.
 - B. On a corner lot the least width of a side yard along the side street lot line shall be equal to the required front yard along the side street. No part of any accessory building shall be nearer a side street lot line than the least depth on any front yard required along such side street.
 - C. The following projections or structures may be permitted in side yards.

- (1) Accessory buildings or structures subject to the provisions contained elsewhere in this chapter.
- (2) Fences or walls not over seven (7) feet above the average natural grade except as noted in Section 165.22.
- (3) Fire escapes, three (3) feet from side lot line. Bays and balconies not more than three feet from the building, provided these projections are entirely within planes drawn from either main corner of the side wall. The sum of the lengths of such projection shall not exceed one-third ($1/3$) of the length of the wall of the main building.
- (4) Chimneys, flues, belt courses, leaders, sills, pilasters and lintels, ornamental features, cornices, gutters and the like into or over a required side yard not more than one and one-half ($1\frac{1}{2}$) feet.
- (5) Terraces, steps, uncovered porches, stoops or similar features, not higher than the elevation of the ground story of the building and distant three (3) feet from the side lot line.

4. Rear Yard Exceptions and Modifications. The following projections or structures may be permitted in rear yards:

- A. Accessory buildings or structures subject to the provisions contained elsewhere in this chapter.
- B. Fences or walls, not over seven (7) feet above the average natural grade.
- C. Fire escapes, not more than six (6) feet, and bays and balconies, not more than three (3) feet.
- D. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, and the like, into or over a required rear yard not more than one and one-half ($1\frac{1}{2}$) feet.
- E. Terraces, steps, uncovered porches, or similar features not more than ten (10) feet into a required rear yard, nor closer than six (6) feet of an alley or within ten (10) feet of a rear lot line.
- F. Swimming pools.

165.42 ADMINISTRATION AND ENFORCEMENT. The administration of this chapter is vested in the following four (4) offices of the government of the City: City Council, Planning and Zoning Commission, Board of Adjustment, and Zoning Administrator.

1. Basis of Regulations. Regulations are made in accordance with the Comprehensive Plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
2. Mayor and City Council. The Mayor and City Council shall discharge the following duties under this chapter:
 - A. Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this chapter.
 - B. Appoint members of the Board of Adjustment as provided for in this chapter.
 - C. Appoint members to the Planning and Zoning Commission.
 - D. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
 - E. Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this chapter.
 - F. Decide all matters upon which it is required to pass under this chapter.
3. Board of Adjustment.
 - A. Creation: The Board of Adjustment, as established under applicable provisions of the Code of Iowa, is the Board referred to in this chapter.
 - B. Appointment; Terms; Removal: The Board shall consist of five (5) members, to be appointed by the Mayor, subject to Council approval by majority vote, for staggered terms of five (5) years. A majority of the members of the Board shall be persons

representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members of the Board may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member affected.

C. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

- (1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.
- (2) To hear and pass on all applications for use or special exceptions in the manner prescribed in this chapter.
- (3) To hear and pass on all applications for variances from the terms provided in the Zoning Ordinance in the manner prescribed and subject to the standards herein.

D. Meetings and Rules. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this section. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his/her absence, the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Zoning Administrator. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

E. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on appeals, applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

4. Powers and Duties of Planning and Zoning Commission. The Planning and Zoning Commission of the City, as established under the applicable provisions of the Code of Iowa, is the Planning and Zoning Commission referred to in this chapter. The Planning and Zoning Commission shall hold the following powers and discharge the following duties under this chapter:

A. Make such surveys, studies, maps, plans, or charts of the whole of the municipality or any land outside thereof, which in the opinion of the Commission bears relation to the Comprehensive Plan and shall bring to the attention of the Council, and may publish its studies and recommendations.

B. Review all public improvement plans. No such improvements shall be made, site obtained, nor permit issued until the design and proposed location of any such improvement has been submitted to the Planning and Zoning Commission and its recommendations obtained. Should the Commission fail to make recommendations within thirty (30) days' written notice, these requirements shall not act as a stay upon action for any improvement.

C. Review all plans, plats, or re-plats or subdivision or re-subdivision of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions intended for public dedication to the City.

D. Make careful and comprehensive studies of present conditions and future growth of the City with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environment which will promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

E. Hold at least one public hearing before the adoption of any such Comprehensive Plan, notice of which shall be given by local newspaper not less than seven (7) or more than twenty (20) days before the date of the hearing. The adoption of the plan shall be by resolution of the Commission carried by the affirmative vote of a simple majority of the members.

F. Consider any proposed amendments or modifications of the adopted Comprehensive Plan. If the Planning and Zoning Commission disapproves the proposed change it may be adopted

by the Council only after the affirmative vote of at least three-fourths (3/4) of the Council members.

G. Recommend to the Council changes in the zoning regulations or districts. *(See the Appendix to this Code of Ordinances for Zoning Amendment Review.)*

H. File recommendations, within thirty (30) days, in connection with any proposed changes in the zoning regulations or districts made by the City Council.

I. Expend all sums of money appropriated, and expend all gifts, donations or payments received by the City for City plan purposes.

J. Contract debts within the limits of income for the present year.

5. Powers and Duties of Zoning Administrator. The Zoning Administrator shall be appointed by the Mayor subject to Council approval by majority vote. The Zoning Administrator shall enforce this chapter and in addition thereto and in furtherance of said authority, shall:

- A. Issue all zoning permits and collect any fees.
- B. Process all applications for variances, special exceptions and rezoning for referral to the Board of Adjustment.
- C. Respond to complaints of alleged violations of the Zoning Ordinance.
- D. Provide and maintain a public information service relative to all matters arising out of this chapter.
- E. Provide proper forms to the public for the zoning process.
- F. Review site plans for conformance with this chapter.
- G. Carry out the administrative duties for both the Planning and Zoning Commission and the Board of Adjustment.
- H. Insure that public notices of hearings are properly advertised in the local newspapers and notice to the parties of interest is provided.

6. Secretary of Commission and Board of Adjustment. The City Clerk shall be the Secretary of the Commission and the Secretary of the Board of Adjustment.

- A. The Secretary of the Commission shall attend all meetings of the Commission, take full and accurate minutes of the proceedings, prepare all necessary reports and documents for and on behalf of the Commission and perform such duties and functions as may be necessary for the orderly recording of the business of the Commission.

B. The Secretary of the Board of Adjustment shall attend all meetings of the Board, take full and necessary reports and documents for and on behalf of the Board, and perform such other duties and functions as may be necessary for the orderly recording of the business of the Board.

7. Variances.

A. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing, may determine and vary the regulations of this chapter in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter.

B. Application. An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of Adjustment may, by rules, require.

C. Standards. The Board of Adjustment shall not vary the regulations of this chapter, as authorized in this section, unless there is evidence presented to it in each specific case that:

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

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

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

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

D. Further Requirements.

(1) The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(2) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(3) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(4) Under no circumstances shall the Board of Adjustment grant a variance to allow for use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.

(5) If a variance is sought to permit building within four feet or less of a property line, the request must be accompanied by a certified survey.

8. Appeals. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of said decision, in the manner provided by the laws of the State and particularly by the Code of Iowa.

9. Use Exceptions and Other Powers of the Board Of Adjustment.

A. Purpose. The development and administration of this chapter is based upon the division of the City into Zoning Districts, within which Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified into any particular district or districts, without consideration of each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such use exceptions fall into two categories:

(1) Uses publicly operated or traditionally affected with a public interest, and

(2) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique

problems with respect to their impact upon neighboring property or public facilities.

B. Initiation of Use Exceptions. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this chapter in the zoning district in which the land is located.

C. Application for Use Exception. An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by such plans and/or data prescribed by the Board of Adjustment and shall include a statement indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

D. Hearing on Application. Upon receipt in proper form of the application and statement referred to in paragraph C above, the Board of Adjustment shall hold at least one (1) public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than seven (7) days or more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in the City. Before an appeal is filed with the Board of Adjustment, the appellant shall pay the City the non-refundable sum of one hundred dollars (\$100.00) to cover the publishing and administration costs of said appeal.

E. Authorization. For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment finding and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.

F. Standards. No special exception shall be granted by the Board of Adjustment unless such Board shall find:

(1) That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

(2) That the special exception will not be injurious to the use and enjoyment of other property already permitted,

or substantially diminish and impair property values within the neighborhood;

(3) That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;

(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

(6) That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.

G. Conditions and Guarantees. Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in subsection F above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

H. Denial and Revocation of Special Exception.

(1) Denial. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.

(2) Revocation. In any case where a special exception has not been established within one year after the date of granting thereof, then, without further action by the Board of Adjustment the use on review or authorization shall be null and void.

I. Other Powers of the Board of Adjustment. The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:

(1) Interpretation of District Map. Where the application of the rules for interpretation of district boundaries contained in Section 165.08 leaves a reasonable doubt to the boundary between two Zoning Districts, the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this chapter.

(2) Temporary Uses and Permits. The Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this chapter, provided that such use is of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

10. Procedure for Amendments. The regulations, restrictions, and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearing before the Council and after a report has been made upon the amendment by the Planning and Zoning Commission. However, the regulation, restriction, or boundary shall not become effective until after

a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published not less than seven (7) days or more than twenty (20) days in advance of the public hearing in a newspaper of general local circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice. Amendment may be passed by the favorable vote of a simple majority of all members of the Council. However, such amendment must pass by a 3/4 favorable vote of all members of the Council, if any of the following occurs:

- A. In case the Planning and Zoning Commission has not approved the change;
- B. A protest filed with the City Council against such change signed by the owners of at least twenty percent (20%) or more of the area to be rezoned;
- C. A protest is filed with the Council against the change, signed by the owners of at least twenty percent (20%) of all lots abutting, adjoining or lying directly across any streets from the perimeter of the area to be rezoned (such immediately adjacent lots extending the depth of one lot or a maximum of 200 feet, whichever is less).

As part of an amendment to this chapter changing land from one zoning district to another zoning district, or as part of an ordinance approving a site development plan, the City 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 owners before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change in zoning district.

11. Rezoning Applications. An application for rezoning shall contain the following items:

- A. The legal description and local address of the property.
- B. The present zoning classification and the zoning classification requested for the property.
- C. The existing use and proposed use of the property.
- D. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.

E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

F. A plat showing the locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

12. Fee. Before any action is taken upon an application as provided in this section, the applicant shall pay the Zoning Administrator the sum of one hundred dollars (\$100.00) to cover the approximate cost of the procedure and the applicant shall forthwith pay over this amount to the credit of the General Revenue Fund of the City. The failure to approve the request will not be construed as any reason for refunding the fee to the applicant.

165.43 BUILDING CONSTRUCTION. No building shall hereafter be erected, reconstructed or structurally altered, nor shall any work be started upon any building until a construction permit for the work has been issued by the Zoning Administrator, which permit shall state that the proposed building complies with all provisions of this chapter.

165.44 CERTIFICATE OF OCCUPANCY. No change in the use or occupancy of land, nor any change in use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose until a certificate of occupancy has been issued by the Zoning Administrator.

(Ord. 09-02 – Jun. 11 Supp.)

165.45 VIOLATIONS AND LEGAL STATUS PROVISIONS.

1. Notice To Violators. If the Zoning Administrator finds that any provision of this chapter is being violated, the Zoning Administrator 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 Zoning Administrator shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation or its provisions.

2. Responsibility. The owners or tenants of any building, structure, land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties provided in the Code of Ordinances or by State law.

3. City Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.07 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.

[illegible]

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 TITLE AND PURPOSE. This chapter shall be known as the “Hazleton, Iowa, Subdivision Ordinance.” The purpose of this chapter is to provide procedures and guidance for the review and consideration of subdivisions, resubdivision or dedications in the incorporated areas of the City as well as a formal review procedure for subdivisions proposed in the unincorporated area in the two-mile area around the corporate limits of the City; implementing the comprehensive plan; prescribing minimum standards for the design layout and development thereof, providing for the preliminary and final approval or disapproval thereof, providing for the enforcement and penalties for the violation thereof, all for the purpose of promoting adequacy, safety and efficiency of the street and road system, and for the purpose of improving the health, safety, and general welfare of the citizens; and repealing all other ordinances or resolutions in conflict herewith. This chapter is permitted and specifically authorized in Chapter 354 of the Code of Iowa.

166.02 APPLICATION. This chapter applies to all plats, replats, and divisions of land into parcels lying in the incorporated area of the City, as well as the subdivision of land within two miles of the City’s corporate boundaries. The provisions of this chapter apply to the division of any lot or parcel of land entered of record in the office of the County Recorder as a single lot or parcel.

166.03 PLATS WITHIN TWO MILES OF THE CITY. In accordance with the provisions of Section 354.9 of the Code of Iowa, as amended, a proprietor or other agent shall file a copy of all preliminary and final subdivision plats, including minor plats, for the unincorporated area within two miles of the City. The City may review and comment on the proposed subdivision. The City may either approve, disapprove, or waive the right to review all plats within the extraterritorial area defined herein. The plat shall be

filed with the City prior to or at the same time as filing with the County. Approval by one political entity does not automatically constitute approval by the others unless the political entities have so agreed.

166.04 SUBDIVISION CLASSIFICATION. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision by the Zoning Administrator. To aid in this, the proprietor shall submit in written or other appropriate documentation the principal features of access, relationship and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor's request.

166.05 ZONING. Any property proposed for subdivision shall be correctly zoned to accommodate the proposed uses before the subdivision process is begun.

166.06 REVIEW BY AGENCIES. All plats shall be submitted to the Zoning Administrator for review prior to recording. The Zoning Administrator shall refer one copy of each to the City Engineer, Building Inspector, and Planning and Zoning Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the Zoning Ordinance and regulations of the City, as well as Buchanan County and the State of Iowa, and submit their findings to the Zoning Administrator as soon as is possible but within ten days of receipt of the copy.

166.07 DEFINITIONS. For the purpose of this chapter, certain words and terms are defined. The following terms are intended to be consistent with Chapter 354 of the Code of Iowa, as amended, and any changes to the Code of Iowa shall automatically be assumed to be part of this chapter.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as a result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fraction parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. "Alley" or "lane" means a public or private way not more than twenty feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.

4. “Auditor’s plat” means a subdivision plat required by either the County Auditor or the County Assessor, prepared by a surveyor under the direction of the County Auditor.
5. “Block” means an area of land within a subdivision that is entirely bounded by streets, highways, or the exterior boundary or boundaries of the subdivision, except alleys.
6. “Building Lines” are shown on all lots whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by the Zoning Ordinance.
7. “Commission” or “Planning and Zoning Commission” means the Hazleton Planning and Zoning Commission.
8. “Conveyance” means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.
9. “Cul-de-sac” means a street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
10. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, is not considered a division for the purposes of this chapter.
12. “Driveway” means a private property access to either a private or public street, road, alley, highway, or freeway.
13. “Easement” means a grant, by the proprietor, for a specific purpose of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the proprietor shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easements which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.
14. “Engineer” means an engineer is a registered civil engineer authorized and licensed to practice engineering in the State of Iowa.
15. “Final plat” means the final map or plan of record of a subdivision and any accompanying material, as described in Section 166.15 of this chapter.

16. “Improvements” means the addition of any facility or construction on land necessary to prepare land or building sites including road paving, drainageways, sewers, water mains, wells, and other works and appurtenances.

17. “Lot,” for the purpose of this chapter, is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Said lot shall have frontage on or access to a public street or private street and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) 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; or (iv) 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 or any ordinance of the City.

18. “Major subdivision” means all subdivisions not classified as minor subdivisions, including, but not limited to, any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvements.

19. “Metes and bounds” means the method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.

20. “Minor plat” means a plat replacing a preliminary and final subdivision plat in the case of minor subdivisions to enable the proprietor to save time and expense in reaching a general agreement as to the form of the plat and the objectives of this chapter.

21. “Minor subdivision” means any subdivision that creates not more than three parcels fronting an existing road, not involving any new road or street or the extension of municipal facilities or the creation of any public improvements or the dedication of lands to the City, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provisions of the Comprehensive Plan, Zoning Ordinance, or this chapter may be classified as a minor subdivision and must meet the appropriate provisions of this chapter.

22. “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 chapter.

23. “Official plat” means either an auditor’s plat or a major or minor subdivision plat that meets the requirements of the Code of Iowa and has been

filed for record in the offices of the County Recorder, County Auditor and County Assessor.

24. “Outlot” means a portion of a subdivision or other parcel or tract intended as a unit for the proposed, whether immediate or future, transfer of ownership. An outlot shall be an unbuildable lot, in and of itself. Typically a proprietor may use an outlot for the following reasons: (i) to reserve a portion of a final plat for future development or sale; (ii) to reserve a portion of a final plat for construction of and future dedication of a detention basin to the City or private association; or (iii) for construction of a private street or access that will be owned and maintained by a private association.

25. “Parcel” means a part of a tract of land.

26. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.

27. “Plat of survey” means the geographical 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.

28. “Preliminary plat” means the proposed map or plan of record of a subdivision and any accompanying material, as described in Section 166.14 of this chapter.

29. “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. This definition also includes a person or persons designated to act on behalf of a proprietor.

30. “Resubdivision” means a change on a map of an approved or recorded subdivision plat of such change affects any street layout on such map or area reserved thereon for public use or at any lot line, or is such a change affects any map or plan legally recorded prior to the effective date of the ordinance codified in this chapter.

31. “Right-of-way” means the land area the right to possession of which is secured or reserved by the contracting authority for road purposes.

32. “Street line” means a dividing line between a lot, tract or parcel of land and a contiguous street.

33. “Street, road, drive, alleys or entrance (private)” means all property intended for use by vehicular traffic, but not dedicated to the public or controlled and maintained by a political subdivision.

34. “Street, road, alleys, drive or entrance (public system)” means all property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision.

35. “Subdivision” means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcel, sites, units, plots, or interests for the purpose of sale, including a sale on contract or the making of a gift, or lease, or development, including resubdivision. “Subdivision” includes the division or development of residential or nonresidential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat or other recorded instrument.

36. “Surveyor” means a registered land surveyor authorized and licensed to practice surveying in the State of Iowa, pursuant to Chapters 355 and 542B of the Code of Iowa.

37. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

38. “Zoning Administrator” means the administrative officer designated or appointed by the Mayor with Council approval to administer and enforce the regulations contained in this chapter.

166.08 DESIGN STANDARDS. The standards and details of design contained in this chapter are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the proprietor should use standards consistent with the site conditions so as to assure an economical, pleasant and desirable neighborhood, and shall conform with design standards as approved by the Council.

166.09 LAND SUITABILITY. No land shall be subdivided for residential purposes that is found to be unsuitable for subdividing 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 unless such suitable conditions are corrected to the satisfaction of the City.

1. If a subdivision is found to be unsuitable for any of the reasons cited in this section, the Commission or Council shall state its reasons in writing and afford the proprietor an opportunity to present data regarding such unsuitability. Thereafter, the Commission or Council may reaffirm, modify or withdraw its determination of unsuitability.

2. All lots located within a floodplain shall contain adequate area above the elevation of flooding for essential and planned installations. All land in a subdivision that lies in a flood plain shall be:

- A. Shown on the individual lots in the preliminary plat; and
 - B. Encouraged to remain as open space for use by all proprietors of lots in the subdivision with an appropriate instrument providing for its care by such proprietors.
3. Subdivisions (including mobile home parks) 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 shall meet the applicable performance standards.

166.10 STREETS.

1. Private Streets. Private streets, not dedicated to and accepted by the City, are discouraged. If existing private streets are utilized they shall be built to public standards, and they shall be platted as such and be under the control of the subdivision, homeowners association and/or proprietor.
2. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width, but not less than a sixty-foot right-of-way width, and in similar alignment, unless variations are recommended by the Commission and approved by the Council.
3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Council. In a case where a street will eventually be extended beyond the plan, but is temporarily dead-ended, an interim turnaround shall be required.
4. Street Intersection. Street intersections shall be as near to right angles (ninety degrees) as possible. There shall be a minimum of 150 feet between centerlines of intersecting streets.
5. Cul-de-Sacs. If a cul-de-sac is permitted, such street shall be no longer than 660 feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least 100 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of 60 feet. The property line at the intersection of the turnaround into the lead-in portion of the street shall be rounded at the radius of not less than 30 feet. A paved cul-de-sac shall have a minimum paved diameter of 71 feet measured from the back of the curb to back of curb.
6. Street Names. All newly platted streets shall be named in a manner consistent with the present street name system. A proposed street that is obviously in alignment with other existing streets, or with a street that may be logically extended through the various portions, shall bear the same name. New

street names shall be subject to the recommendations of the Commission and approval by the Council so as to avoid duplication or similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded area, and other natural features which should lend themselves to attractive treatment.

8. Half Streets. Dedication of half streets will be prohibited unless there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if recommended by the Commission and approved by the Council.

9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off- street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead end thereof.

10. Easements.

A. Permanent structures, excluding landscaping and fencing, are not allowed to be constructed on an easement.

B. Easements for utilities, when necessary, shall be provided along rear or side lot lines or along alleys. The width of such easement shall be not less than ten feet in total width. In the event that there exists an easement in an adjacent subdivision, the ten-foot requirement may be reduced to five feet to allow for a minimum of a ten-foot total easement.

C. Whenever a subdivision is traversed by a water course, channel, drainageway, stream, sanitary sewer, or storm water drainage structure, a storm water easement or drainage easement may be required. The width of such easement shall be adequate for the anticipated drainage but not less than 20 feet and shall be shown on the plat.

D. Any lot that has no frontage upon a public or private street shall be provided with an easement for access to a public or private street. The width of such easement shall not be less than 20 feet.

E. Easements to the City for street purposes shall not be allowed.

11. Neighborhood Plan. If any overall plan has been approved by the City for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

12. Unsubdivided Portion of Plat. Where the plat is to be submitted includes only part of the tract owned by the proprietor, the Commission may require a sketch of the prospective future system of the unsubmitted part. The

street system of the part submitted shall be correlated with the street system of the part not submitted.

13. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, limited accessway, freeway or parkway, the street layout shall provide motor access to such frontage by one of the following means:

A. Be so arranged as to permit, where necessary, future grade separations at highway crossings.

B. Border the highway with a parallel street at a sufficient distance from it to permit deep lots to go back onto the highway; or form a buffer strip for park, commercial, or industrial use.

14. Street Right-of-Way Width. The width of minor or residential street right-of-way shall not be less than 60 feet.

15. Street Alignments. Streets and alleys shall be completed to grades which have been officially determined or approved by the Council. All streets shall be graded to within two feet of the right-of-way and adjacent sides slopes graded to blend with the natural ground level. The maximum grade shall not exceed seven percent for main and secondary thoroughfares, or eight percent for minor or local service streets. A minimum centerline radius of 150 feet shall be required of all streets. All street alignments, both horizontally and vertically, shall meet design criteria as specified in the current American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets.

166.11 BLOCKS.

1. No block shall be longer than 606 feet.

2. At street intersections, block corners shall be rounded with a radius of not less than 25 feet. However, where a curve radius has been previously established, such radius shall be used as standard if greater than 25 feet.

166.12 LOTS.

1. Corner lots shall have a minimum width that will permit required building setbacks on both front and side streets.

2. Double frontage lots, other than corner lots, are prohibited except where such lots back onto a major street or highway.

3. Minimum lot sizes and dimensions, as defined in the Zoning Ordinance, shall be met.

4. Side lot lines shall be approximately at right angles (90 degrees) to the street or radial to curved streets. On large size lots and except when indicated by topography, lot lines shall be straight.
5. All out-lots shall be noted as unbuildable on plats.

166.13 IMPROVEMENTS.

1. Streets and Roads. All streets or roads intended to be dedicated to public use and accepted into the City street system shall meet the following criteria:

A. All streets shall be built to grade and standard cross-section according to the plans approved by the City Engineer and Council prior to construction. An urban type cross-section shall be used. Both plan and profile view details shall be drawn on 24-inch by 36-inch sheets to a scale of one inch equals 50 feet horizontal and one inch equals five feet vertical. If feasible, 11-inch by 17-inch plans drawn to a scale of one inch equals 60 feet horizontal and one inch equals ten feet vertical shall be acceptable.

B. All streets shall be paved and have portland cement concrete (PCC) curb and gutter. The minimum width of a residential street shall be 26 feet measured from the back of curb to back of curb, and the minimum width of a commercial street shall be 31 feet measured from the back of curb to back of curb.

C. All streets shall be paved with one of the following in accordance with specifications approved by the Council and City Engineer.

D. Portland cement concrete (PCC) paving with a minimum seven-inch thickness with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be four inches of granular material.

E. Asphalt cement concrete (ACC) paving with a minimum eight-inch thickness, as follows, with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be six inches of soil aggregate sub-base.

F. All construction and materials shall conform to the current Iowa Department of Transportation standard specifications and special provisions.

G. Forty-eight-hour advance notice of construction is required.

H. All designs, specifications, material and procedures shall be certified to the City Engineer by a licensed engineer. All roads to be dedicated to the City shall be inspected by the City, with the cost of said inspection being reimbursed to the City.

2. Utility Service Systems.

- A. Public sanitary sewers and water systems shall be installed within the street or right-of-way or established easements as required by the State and local ordinances.
- B. Gas mains shall be installed within the street right-of-way or an established easement.
- C. Electric and telephone lines shall be installed within the street right-of-way or established easements.
- D. All subdivisions, and their lots, that are located within the incorporated boundaries of the City shall be required to connect to municipal utilities.
- E. All utility service systems shall be subject to approval by the City Engineer and Council.

3. Storm Drainage.

- A. Adequate storm sewers and inlets shall be provided where necessary. All storm water intakes shall be capable of handling a five-year storm, and the pipe shall be capable of handling a ten-year storm. In addition, the subdivision shall have one hundred-year overland conveyance capacity.
- B. Natural waterways shall be maintained and protected.
- C. All storm water facilities shall be subject to approval by the City Engineer and Council.
- D. If the development covers an area of one or more acres, the applicant must have the necessary Iowa Department of Natural Resources permits.

4. Utility Locations. The proposed location, alignment, and sizes of all existing public utilities shall be shown on the preliminary plat. All utilities shall be located underground. Approval of the preliminary plat will form the basis of final designs of all improvements. All underground utilities that will be located within the street right-of-way shall be constructed, and service provided to each lot, before acceptance of the improvements by the City.

5. Signs and Traffic Control Devices. To insure uniformity with the City's street signage system, all street name signs and traffic control signs shall be erected in conformance with the *Manual of Uniform Traffic Control Devices* (WTCD) and the Buchanan County E-911 requirements. The proprietor will be responsible for all costs associated with sign erection. Maintenance of all signs will remain the responsibility of the proprietor until, or unless, the streets or roads are accepted into the Hazleton street system.

6. Mailboxes, Including Newspaper Boxes. Mailboxes and mailbox construction shall conform to United States Postal Service standards.

7. Parking. The depth and width of properties reserved and designed for residential, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.

8. Sidewalks. Sidewalks are required in all subdivisions.

166.14 PRELIMINARY PLAT REQUIREMENTS AND PROCEDURES.

1. Pre-preliminary Plan. Each proprietor of land is encouraged to confer with the Zoning Administrator before preparing the preliminary plat in order to become familiar with City regulations affecting the territory in which the proposed subdivision lies. A pre-preliminary plat may be presented at that time.

2. Number of Copies. Whenever the proprietor of any tract or parcel of land within the incorporated area of the City wishes to subdivide or plat the same, the proprietor shall cause to be prepared a preliminary plat of said subdivision, and shall submit ten copies of said preliminary plat and supportive information to the Zoning Administrator for preliminary study and approval. The preliminary plat shall be submitted to the Zoning Administrator a minimum of 21 days prior to Council consideration.

3. Referral of Preliminary Plat. The Zoning Administrator shall refer one copy each to the City Engineer, Building Inspector and Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Zoning Administrator as soon as possible, but within 30 days.

4. Contents of Preliminary Plat. Preliminary plats shall contain, include or show the following requirements:

A. Name of subdivision, date, an arrow indicating the northern direction and the legal description of the property being platted.

B. Plats shall be drawn in sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.

C. Name and address of the proprietor, if different than the owner.

D. Name and address of proprietor's engineer or surveyor.

E. Existing buildings, railroads, utilities, and other rights-of-way.

- F. Location, names and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided.
 - G. Location and names of adjoining subdivisions as well as a list of proprietors within 200 feet of the property to be subdivided.
 - H. Proposed lot lines with approximate dimensions and the square foot area of each lot.
 - I. Areas dedicated for public use, such as schools, parks, and playgrounds.
 - J. Contour lines shown at intervals of two feet.
 - K. Building setback lines.
 - L. Boundaries of the proposed subdivision shall be indicated by a heavy black line.
 - M. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties.
 - N. Proposed utility service.
 - (1) Source of water supply;
 - (2) Provision for sewage disposal, storm water drainage, and flood control, if applicable.
 - O. A vicinity sketch at a legible scale showing the relationship of the plat to its general surrounding.
 - P. Lots shall be numbered in a way that is acceptable to the County Auditor's office.
 - Q. Existing and proposed easements showing widths and purposes of said easements.
 - R. If applicable, the regulatory flood elevation data limits of the 100-year floodplain boundaries, original and revised, must be shown.
 - S. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area.
5. Review by the Commission. Upon receipt of the report of the various offices referred to in Section 166.06 of this chapter, the Commission shall review said plat, consider said reports, negotiate with the proprietor on changes deemed advisable and the kind and extent of improvements to be made and take action upon the preliminary plat as originally submitted or modified. If a subdivision is not recommended for approval, the Commission shall give written reasons therefor. A preliminary plat may require more than one Commission review. Before approving a preliminary plat, the Commission may at its discretion hold

a public hearing, notice of which shall be given by publication in a local newspaper at least seven, but not more than 20, days before said public hearing. If a public hearing is scheduled, as a courtesy, proprietors within 200 feet may be notified of said public hearing.

6. Review by the Council. The Council shall then take action upon the preliminary plat not more than 60 days after the initial receipt by the Zoning Administrator. The Council may certify its approval or disapproval. If the preliminary plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the preliminary plat as provided in this chapter. If approved, the preliminary plat shall be certified by resolution. The approval of the preliminary plat by the Council does not constitute acceptance of the subdivision, but shall authorize the proprietor to proceed with the preparation of the final plat. The approval of a preliminary plat by the Council shall be valid for a period of one year from the date of such approval, except upon the application for and approval of an extension of such period of validity, by the Council. After one or more lots have been final platted, the preliminary plat is valid until such time that it is superseded by another preliminary plat.

166.15 FINAL PLAT REQUIREMENTS.

1. Number of Copies. Within one year of approval of the preliminary plat, or extension thereto, by the Council, the proprietor shall submit ten copies of the final plat for review by the Zoning Administrator. Final plat review shall not begin until, or unless, all copies of the final plat and accompanying material have been submitted to the Zoning Administrator a minimum of 21 days prior to Council consideration.

2. Referral of Final Plat. The Zoning Administrator shall refer one copy each to the City Engineer, Building Inspector and Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Zoning Administrator as soon as possible, but within 30 days.

3. Contents of Final Plat. Final plats shall contain, include or show the following requirements:

A. Name of subdivision and proprietor.

B. Plats shall be drawn on sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger

subdivisions that require more than one sheet shall show match lines and references.

- C. An arrow indicating the northern direction.
 - D. Curve data including delta angle, length of arc, degree of curve and length and direction of the chord.
 - E. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in 10,000 for subdivision boundaries and shall not be greater than one in 5,000 for an individual lot. The areas of irregular lots within the plat shall be shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest ten square feet.
 - F. Exact name, location, width, and designation of all streets within the subdivision. Additionally alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated.
 - G. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed necessary for the orderly development of the land encompassed within the plat. All such easements relative to their usage and maintenance shall be recommended by the Commission and approved by the Council prior to the recording of the plat.
 - H. Building setback lines with dimensions.
 - I. Legal description of the property being subdivided.
 - J. Lot numbers.
 - K. Certificate of Survey.
 - L. Description and location of all permanent monuments set in the subdivision, including ties to original government corners.
 - M. A table that lists coordinate values for all property corners.
4. Accompanying Material.
- A. The documents required by Chapter 354.11 of the Code of Iowa.
 - B. A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the City Attorney.
 - C. Any dedication or easement to the City for any property intended for public use.

5. Review by the Commission. The Commission shall review the final plat in the same manner that they addressed preliminary plats and forward its recommendation to the Council.

6. Action by the Council.

A. Upon receipt of the final plat and the required documents from the Commission, the Council will consider the recommendations from the reviewing offices. The Council shall approve or disapprove of the final plat. If the final plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the final plat as provided in this chapter. If approved, the final plat shall be certified by resolution.

B. The Council may refuse to approve any plats for proposed subdivisions, which include improvements or facilities that are subject to regulations and ordinances of the County Board of Health unless such improvements or facilities have been approved by that department. The Council may deny approval of a final plat where the lots have an area less than the minimum area required by such applicable regulations and ordinances.

C. The passage of a resolution by the Council accepting the plat shall constitute final platting approval for the area shown on the final plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, Code of Iowa, before the County shall recognize the plat as being in full force and effect. In addition, eight copies of the approved final plat and adopting resolution as well as one copy of the complete plat proceedings with restrictive covenants shall be submitted to the Zoning Administrator by the proprietor.

166.16 IMPROVEMENTS.

1. All standards and improvements described in Section 166.08 of this chapter shall be installed in accordance with the approved plans and specifications before acceptance of the final plat by the Council. All improvements shall be inspected by the proprietor's engineer and City Engineer and certified to the Council with the cost of said inspection by the City Engineer being reimbursed to the City.
2. Subdivisions may be developed in phases.
3. Before acceptance of the improvements by the Council, the proprietor may enter into an agreement with the Council to ensure the completion of the improvements within a specified time period. The agreement shall specify the improvements to be constructed, the schedule for completion of the construction (each phase not to exceed three years) and shall be accompanied with a performance bond, corporate surety bond, cash, or other surety approved by the City Attorney in an amount equal to 100% of the estimated cost of said improvements.
4. The proprietor of the land being platted shall be required to provide to the City property maintenance bonds, or other means satisfactory to the City Engineer and City Attorney, so as to insure that for a period of two years from the date of acceptance and completion of any improvement, the proprietor shall be responsible for maintaining the improvements in good repair.

166.17 REQUIREMENTS AND PROCEDURES FOR MINOR SUBDIVISIONS.

1. Preparation of Plat. The proprietor shall prepare the proposed minor subdivision plat and shall submit five copies to the Zoning Administrator. Said plat shall contain such information as required by this chapter, specifically the requirements in Sections 166.14 and 166.15 of this chapter, or as may be specified by the Zoning Administrator.
2. Action by Zoning Administrator. If the Zoning Administrator determines that the "minor subdivision plat" contains sufficient data and elements to furnish a basis for review, then the Zoning Administrator shall forward copies of the submitted plat to the City Engineer, Building Inspector, and to such other agencies or persons as may be deemed appropriate and necessary.
3. Review by Agencies. Within ten working days following receipt of an application by the Zoning Administrator:

A. The City Engineer shall notify the Zoning Administrator that access onto the City street will, or will not, be granted and that other improvements do, or do not, conform to current standards.

B. The City Engineer and/or public works personnel shall notify the Zoning Administrator that the land so proposed to be subdivided will comply with all applicable Hazleton, Buchanan County, and State of Iowa standards, and that the proposed or existing system of water supply complies with applicable standards.

C. Other agencies or persons shall inform the Zoning Administrator on factors deemed appropriate and necessary.

Within 20 working days following the date of receipt of an application, or such additional period as the proprietor may authorize, the Zoning Administrator may schedule a public hearing on the subdivision request with the Council.

4. Council Action. The Council may approve or disapprove of the subdivision request, or may refer the request to the Commission for their recommendation prior to considering the minor plat. If the minor plat is disapproved by the Council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days to district court, the failure of the Council to issue final approval of the minor plat as provided in this chapter. If approved, the minor plat shall be certified by resolution.

5. Limitation. This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it. For definition purposes of this section only, a parcel of land means any sized contiguous piece of property under same ownership as shown on the Buchanan County Auditor's plat books as of the effective date of the ordinance codified in this chapter.

166.18 ESTABLISHMENT OF PLACES. Where it is desired to subdivide a parcel of land, which because of its size or location, does not permit a normal lot or street area, there may be established a "place." Such a place may be in the form of a court, non-connecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (street or court). If any dead-end place, court or cul-de-sac is more than 250 feet in length, it shall terminate in an open space, preferably circular having a minimum radius of 60 feet. Except in unusual instances, no dead-end street or place shall exceed 600 feet in length.

166.19 BUILDING PERMITS AND OCCUPANCY PERMITS. No occupancy permit for any building in a subdivision shall be issued prior to the

completion of the improvements in a manner which shall be adequate for vehicular access by the prospective occupant and by law enforcement and fire equipment. No building permits shall be issued in the subdivision prior to the time that the streets and easements affecting such lot are brought to the grade established in the construction plans. No building permit shall be issued for the final ten percent of lots, or the final five lots of a subdivision, whichever is greater, until all public improvements required by the Council for the plat have been fully completed and dedicated to the City.

166.20 VACATION OF PLATS, STREETS AND OTHER PUBLIC LANDS.

1. Intent. This section is intended to be consistent with Sections 354.22 and 354.23 of the Code of Iowa, as amended, and any changes to the Code of Iowa shall automatically be assumed to be part of this section. Prior to consideration by the Council, all vacations of plats, streets, and other public lands shall be reviewed by the Commission. A recommendation from the Commission shall be forwarded to the Council.

2. Vacation of Plats. The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition with the Commission for review and recommendation after review by the Commission, the petition and recommendation are filed with the Council, and they shall set a time and place for a public hearing on the petition. Written notice of the public hearing shall be provided by the petitioner to proprietors and mortgagees within 300 feet of the area to be vacated. If a portion of the official plat adjoins a river or State-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with 14 days between publications, stating the date, time, and place of the public hearing. The official plat or portion of the official plat shall be vacated upon recording of all the following documents:

A. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each property along with an accurate description to be used to describe the land after the lots are vacated.

B. A resolution by the Council approving the vacation and providing for the conveyance to those areas included in the vacation which were previously set aside for dedicated public use.

C. A certificate of the County Auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this section authorizes the closing or obstructing of public highways. The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use to property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat.

3. Vacation of Streets and Other Public Lands. The City may vacate a part of an official plat that had been conveyed to the City or dedicated to public which is deemed by the Commission and Council to be of no benefit to the public. The Council shall vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The City may convey the vacated property by deed to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property, then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding legal description of each parcel being conveyed. A recorded vacation instrument that conforms to this section is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the County Recorder and County Auditor. A vacation instrument recorded pursuant to this subsection shall not operate to annul any part of an official plat except as provided for in subsection 2 of this section.

166.21 FEE SCHEDULE. Nonrefundable fees pertaining to permits and actions required by this chapter shall be in accord with the following schedule of fees. Said fees shall include, but not be limited to, the following:

1. Major subdivisions: \$100.00 plus \$10.00 per lot.
2. Minor subdivisions: \$50.00 plus \$10.00 per lot.
3. Vacation of plats, streets, and other public lands: \$50.00. This fee shall not be administered and collected if the dedication or vacation is processed in the form of a plat and either minor or major subdivision fees are paid in lieu thereof.
4. Recording fees: per a schedule on file in the County Recorder's office.

166.22 VARIATIONS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustices, the Council, upon recommendation of the Commission, may vary or modify such requirements to allow the proprietor to develop in a

reasonable manner with due regard for the public health, welfare, and safety so that the interests of the City and surrounding area are protected and the general intent and spirit of this chapter are preserved.

166.23 ENFORCEMENT.

1. No plat or any subdivision in the City or within two miles of the corporate limits of the City shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.
2. No street hereafter created in the incorporated area of the City shall become a part of any street system as defined in the Code of Iowa; and no improvements shall be made by the City, nor shall the City incur any expense for maintenance or repair of roads or other facilities on land that has been subdivided unless such road or other facility shall have been first approved and accepted by the Council in accordance with the provisions of this chapter and the dedication thereof accepted as a public road or improvement.
3. The City shall not issue building, occupancy, or repair permits for any structure located on a lot in any subdivision that is located within the City unless the plat of such subdivision has been first approved in accordance with the provisions contained herein.
4. Each day that any violation of this chapter continues shall be considered a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

166.24 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council, provided, however, that such changes and amendments shall not become effective until after study and recommendation by the Commission and in accordance with the regulations and provisions of the City and the Code of Iowa.

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CHAPTER 167

WIND TURBINES

167.01 Purpose
167.02 Definitions
167.03 Applicability
167.04 Procedures
167.05 District Regulations

167.06 Requirements and Standards
167.07 Other Applicable Standards
167.08 WECS Permit Process
167.09 Release of Liability

167.01 PURPOSE. This chapter establishes regulations for the installation and operation of Wind Energy Conversion Systems (WECS) within the city limits for the City of Hazleton. The purpose of this regulation is to promote the safe, effective, and efficient use of wind energy conversion systems to reduce the consumption of utility-supplied electricity. It is the purpose and intent of these regulations to ensure the proper design, siting, and installation of wind energy conversion systems in order to protect the public health, safety, and welfare of surrounding property owners and the community. The provisions of this ordinance shall not guarantee wind rights or establish access to the wind.

167.02 DEFINITIONS.

1. “WECS” shall mean Wind Energy Conversion System. That is, an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site and/or distributed into the electrical grid.
2. “Aggregated Project” shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but also included as part of the aggregated project.
3. “Operator” shall mean the entity responsible for the day-to-day operation and maintenance of the wind energy conversion system.
4. “Commercial WECS” shall mean a WECS of equal to or greater than one hundred (100) kilowatts in total name plate generating capacity.
5. “Non-Commercial WECS” shall mean a WECS of less than one hundred (100) kilowatts in total name plate generating capacity.
6. “Fall Zone” shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower could collapse in the event of a

structural failure. This area is commonly similar to the total height of the structure.

7. “Tower Height” shall mean the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

8. “Total Height” shall mean the height above grade to a rotor blade at its highest point.

9. “Feeder Line” shall mean any power line that carries electrical power from one or more wind turbines or individuals transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

10. “Meteorological Tower” shall mean those towers which are erected primarily to measure wind speed and directions plus other data relevant to site WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.

11. “Micro-WECS” shall mean a WECS of one (1) kilowatt name plate generating capacity or less and utilizing supporting towers of forty (40) feet or less.

12. “Non-Commercial Micro WECS” shall mean a WECS of equal to or greater than ten (10) kilowatts in total name plate generating capacity and utilizing supporting towers of one-hundred twenty (120) feet or less.

13. “Nacelle” shall mean the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.

14. “Property line” shall mean the boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

15. “Participating Landowner” shall mean any landowner whose property has or is proposed to have all or a portion of a wind energy conversion system located on it pursuant to an agreement with a Facility Owner or Operator.

16. “Non-Participating Landowner” shall mean any landowner except those on whose property all or a portion of a wind energy conversion system is located pursuant to an agreement with a Facility Owner or Operator.

17. “Rotor diameter” shall mean the diameter of the circle described by the moving rotor blades.

18. “Guy wire” shall mean any wire extending from a wind energy conversion system for the purpose of supporting the structure.
19. “Substation” shall mean any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines. High voltage transmission lines shall be located outside of the road right of way.
20. “Tower” shall mean the tower of a wind turbine which shall include the vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
21. “Occupied Structure” shall mean a residence, school, hospital, church, public library, office, or other building used for public gathering that is occupied or in use when the permit application is submitted.
22. “Transmission Line” shall mean those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
23. “Shadow Flicker” shall mean alternating changes in light intensity caused by the moving blade of a wind energy conversion system casting shadows on the ground and stationary objects, such as a window at a residence.
24. “Public conservation lands” shall mean land owned in fee title by County, State, or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, Hunting Preserve, and Waterfowl Production Areas. For the purpose of this chapter, public conservation lands will also include lands owned in fee title by nonprofit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
25. “Wind turbine” shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.
26. “Wind generator” shall mean the blades and associated mechanical and electrical conversion components mounted on the top of the tower.

167.03 APPLICABILITY. It shall be unlawful to construct, erect, install, alter, or locate any WECS within the city limits of the City of Hazleton, without

rezoning the area of the proposed site to A 1 and being authorized by Hazleton City Council in a public hearing.

167.04 PROCEDURES.

1. Applications requirements for a WECS Permit shall be made on a permit application to the City of Hazleton for any WECS proposed within the city limits.

2. No WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining a zoning placement permit and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.

3. Rezoning or map amendment shall be applied for and reviewed under the procedures established in this Ordinance, except where noted below. Reasonable fees shall be charged for rezoning per parcel or tract of land as well as a fee for each tower included in the application. Said fees shall be determined by the Planning and Zoning Department.

4. The Application for all WECS shall include the following information:

- A. The name(s) and address of the project applicant.
- B. The name of the project owner.
- C. The legal description of the site where development is planned.
- D. Evidence that the applicant is the owner of the property where development is planned or written approval of the property owner authorizing the applicant to make the application for the WECS.
- E. A preliminary description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- F. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale or include accurate dimensions with aerial photos or drawings.

- G. If connection to the publicly regulated utility grid is proposed, a copy of the contract between the applicant and the utility company verifying that the proposed connection is acceptable, and/or other evidence making clear that the utility company is aware of the proposed connection and finds it acceptable.
 - H. Computer model analysis showing worst-case and estimated real-case annual hours of shadow flicker.
5. The building permit (after zoning approval) for the Commercial WECS shall include:
- A. Final site plan.
 - B. Final legal description.
 - C. Engineer's certification.
 - D. The latitude and longitude of individual wind turbines.
 - E. A U.S. Geological Survey topographical map, or map with similar data, or the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.
 - F. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three-hundred twenty (1,320) feet of the proposed WECS. [dependent on DNR/Iowa Code]
 - G. An acoustical analysis.
 - H. Federal Aviation Administration (FAA) Permit Application.
 - I. Location of all known Communications Towers within two (2) miles of the proposed WECS.
 - J. Discontinuation and Decommissioning Plan.
 - K. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
6. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the City of Hazleton Zoning Department and approved by the City Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the County any and all damages caused to the streets, highways, and bridges, by applicant.

7. Aggregated Projected Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals.

167.05 DISTRICT REGULATIONS.

1. WECS may be permitted as a Principal Permitted Use in the A 1, as set forth in the Hazleton Code of Ordinances, so long as bulk requirements and setback requirements are addressed. Said bulk requirements are shown in Table 1 below.

2. Setbacks: Substations and Accessory Facilities.

A. Minimum setback standards for substations, feeder lines, and fences shall be consistent with the standards for accessory structures established in the Hazleton Zoning Ordinance.

(1) Substation setbacks:

a. Ten (10) feet, structure setback from road right-of-way located wholly outside the right-of-way.

b. Property lines ten (10) feet; structure setback from property lines; side yard.

Table 1. WECS Setback Requirements: Wind Turbines and Meteorological Towers.

	Wind Turbine - Non-Commercial Micro WECS	Wind Turbine - Non- Commercial WECS	Wind Turbine - Commercial WECS	Meteorological Towers
Property Lines	1.1 times the total height or the distance of the fall zone, unless a waiver of this requirement is signed by a participating landowner.	1.1 times the total height or the distance of the fall zone by a professional engineer plus 10 feet unless a waiver of this requirement is signed by a participating landowner.	1.25 times the total height, unless a waiver of this requirement is signed by a participating landowner.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height, unless a waiver of this requirement is signed by a participating landowner.
Neighboring Dwellings¹	1,000 feet. This setback requirement may be reduced by the Zoning Administrator subject in maintaining adequate health and safety requirements or waived by the dwelling occupant or owner.	1,000 feet	1,200 feet	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Road Rights-of Way²	The distance of the fall zone plus 10 feet or 1.1 times the total height.	The distance of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	1.1 times the height may be reduced for minimum maintenance roads.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Other Rights-of Way (Railroads, grasslands, or hunting preserve)	The lesser of 1.1 times the total height or the fall zone plus 10 feet.	The lesser of 1.1 times the total height or the distance of the fall zone as certified by professional engineer plus 10 feet.	The lesser of 1.1 the total height or the distance by a professional engineer plus 10 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Public conservation lands managed as grasslands, or hunting preserve	600 feet or 200 yards	600 feet or 200 yards	600 feet or 200 yards	600 feet or 200 yards
Wetlands	NA	NA	NA	NA

Other structures	The fall zone plus 10 feet or 1.1 times the total the height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Other existing WECS	NA	NA	To be determined through cup review based on: relative size of the existing and proposed WECS, alignment of the WECS relative to the predominant winds, topography, extent of the wake interference impacts on existing WECS, other setbacks required waived for multiple turbine projects including aggregated projects.	The fall zone, as certified by a professional engineer plus 10 feet or 1 times the total height. Extent of wake interference impacts on existing WECS shall be considered.

¹ The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within one-thousand two-hundred (1,200) feet of a commercial wind turbine; unless a release of liability is received from the WECS.

² The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.

167.06 REQUIREMENTS AND STANDARDS.

1. Safety Design Standards.

A. **Engineering Certification:** For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. **Clearance:** Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.

C. **Warnings:** For all commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage.

2. Height Standard.

A. **Total height - Non-Commercial WECS** shall have a total height of less than two hundred feet.

- B. Total Height must also be in compliance with all municipal airport ordinances within Buchanan County.
- C. Commercial WECS shall be in compliance with paragraph 167.06(2)(B), above, as well as all setback requirements as outlined in Table 1.
3. Meteorological towers may utilize guy wires.
4. Color and Finish: All wind turbines and towers that are part of a commercial WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
5. Lighting: Lightning, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds and for aircraft awareness. Red pulsating incandescent lights should be avoided. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
6. Other Signage: All signage on site shall comply with Sign Regulations of the Hazleton Zoning Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle or base of the WECS.
7. Feeder Lines: All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible.
8. Waste Disposal: Solid and hazardous waste, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, State, and federal regulations.
9. Impact on Public Infrastructure: Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as, but not limited to, county roads and bridges, and to any highway system, storm water management related improvements and/or public utilities that are caused by the construction, maintenance, or removal of any WECS shall be reimbursed to the affected local government. A determination shall be made by the Board of Supervisors after consultation with the Engineer or applicable official to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damage to any haul routes, as determined by the Engineer, shall be reimbursed to the local government affected and shall be

billed to the corporation or company owning said WECS to be paid within forty-five (45) days of issuance and may be subject to late charges, interest, or penalties as allowed by law. All haul routes shall be reviewed and approved by the Engineer on use of any county roads prior to construction, maintenance, or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS manufacturer(s) or owner(s) and/or their contractors shall contact the Engineer a minimum of one (1) month prior to starting any work in the City of Hazleton. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the City of Hazleton and approved by the City Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the County any and all damages caused to the streets, highways, and bridges, by applicant.

10. Shadow Flicker: WECS shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is deemed to be more than thirty (30) hours per year on affected occupied structures. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed through siting or mitigation measures.

The owner and operator of a Commercial WECS shall make reasonable efforts to minimize shadow flicker to any occupied structure on a non-participating landowner's property, both through the initial design of the system and as a result of any shadow flicker complaints occurring after the facility is operational. A shadow flicker mitigation plan shall be submitted with the Commercial WECS application, outlining steps that will be taken to minimize shadow flicker. Reasonable efforts shall include, but not be limited to the use, of computer modeling to identify optimum location and orientation of each Commercial WECS and programs to ensure wind turbine blades do not rotate during times when shadow flicker may adversely affect a nonparticipating landowner's property.

11. Discontinuation and Decommissioning: Any WECS which remains nonfunctional or inoperative for a period of one (1) year shall be considered discontinued, unless a plan is developed and submitted to the Hazleton Zoning Administrator outlining the steps and schedule for returning the WECS to service.

A. All WECS and accessory facilities shall be removed to a depth of four (4) feet including footing and foundations within one-hundred eighty (180) days of the discontinuation of use.

B. Each Commercial WECS shall have a decommissioning plan outlining the anticipated means and cost of removing each WECS at the end of their serviceable life or upon becoming discontinued.

C. The cost estimates associated with a decommissioning plan shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning WECS, or such other person with suitable expertise or experience with decommissioning WECS.

D. The decommissioning plan shall identify the financial resources that will be available to pay for the decommissioning and removal of the WECS accessory facilities.

E. The City of Hazleton will require financial security in the form of a cash escrow, and irrevocable letter of credit or a performance bond to ensure that decommissioning of a Commercial WECS or Non-Commercial WECS is completed as required in this procedure.

167.07 OTHER APPLICABLE STANDARDS.

1. Noise: WECS has been installed shall not exceed the noise level of fifty-five (55) decibels, as measured at the exterior of any occupied building on a nonparticipating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the commercial wind energy conversion system shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier. In the event of an alleged nuisance, the City of Hazleton shall request that the decibel level be determined by the Iowa Department of Natural Resources or shall be determined by a third party hired by the operator.

2. Electrical Codes and Standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

3. Federal Aviation Administration: All WECS shall comply with FAA standards and permits.

4. Uniform Building Code: All WECS shall comply with the State Building Code adopted by the State of Iowa.

5. Interference: The applicant(s) shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone,

microwaves, or television signals caused by any WECS. The applicant(s) shall notify all communication tower operators within two miles of the proposed WECS location upon application to the City of Hazleton for permits. No WECS shall be constructed so as to interfere with the City of Hazleton, Buchanan County or Iowa Department of Transportation microwave transmissions.

6. Waiver of Noise Provision for Commercial WECS: Non-participating landowners may waive, in whole or part, the noise regulation requirements in subsection 167.07(1) of this ordinance by signing a waiver or easement that sets forth the applicable noise provision(s) and the proposed changes. Any such waiver shall be recorded in the Buchanan County Recorder's Office. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of noise regulation requirements shall run with the land and may forever burden the subject property.

7. Waiver of Shadow Flicker Impact Regulations: Non-participating landowners may waive, in whole or part, the Shadow Flicker Impact regulation requirements in subsection 167.06(10) of this ordinance by signing a waiver that sets forth the applicable Shadow Flicker Impact provision(s) and the proposed changes. Any such waiver shall be recorded in the Buchanan County Recorder's Office. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of Shadow Flicker regulation requirements shall run with the land and may forever burden the subject property.

8. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this ordinance or WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.

167.08 WECS PERMIT PROCESS. All WECS Permit applications shall be approved by the City of Hazleton following the standards and procedures as set forth in the Hazleton Zoning Ordinance.

167.09 RELEASE OF LIABILITY. The City of Hazleton shall be fully released of any liability associated with any WECS built within the city limits of the City of Hazleton.

(Ch. 167 – Ord. 14-01 – Oct. 15 Supp.)

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