

CITY OF MARSHALLTOWN
COUNCIL AGENDA
CITY HALL COUNCIL CHAMBERS
10 W STATE STREET
SEPTEMBER 23, 2019, 5:30 PM

A. NOTICE TO PUBLIC

The Mayor and City Council welcome comment from the public during discussion of any of the agenda items. You are required to step to the microphone, state your name and address for the record and to limit the time used to present your remarks 3 minutes or less in order that others may be given the opportunity to speak. All speakers shall speak clearly and direct their comments to the Mayor and City Council and not to any Councilor specifically. It is at the discretion of the Mayor and Council to respond to specific questions and comments or to have staff respond during the meeting.

B. CALL TO ORDER

Mayor Joel T.S. Greer

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Cahill, Gowdy, Hoop, Isom, Lamer, Martin, Wirin.

E. MAYOR, COUNCIL AND ADMINISTRATOR COMMENTS

1. Years Of Service

Valerie Strong - 5 years
Adam Baedke - 5 years
Daniel Oswald - 10 years
Kerri Larsen - 10 years
Chris Becker - 30 years

F. CONSENT AGENDA

1. Approve Council Minutes, September 9, 2019, And Bill List, \$1,372,920.68

Documents:

[2019-09-09_Council-minutes.pdf](#)
[2019-09-23_BillList.pdf](#)

2. Receipt Of Building Permit Report, June, July & August 2019

Documents:

[0619.pdf](#)
[0719.pdf](#)
[0819.pdf](#)

3. RESOLUTION 2019-234 ADOPTING SUPPLEMENT 2019-S1 TO THE CODE OF ORDINANCES OF THE CITY OF MARSHALLTOWN, IOWA, THROUGH ORDINANCE 14985

Documents:

[09-23-2019_2019-234_Res Appv Code of Ordinances Supplement 2019-S1.pdf](#)
[09-23-2019_2019-234_2019-S1_Supplement.pdf](#)

4. RESOLUTION 2019-235 APPROVING AN AGREEMENT FOR THE RETENTION OF TORNADO-DAMAGED TREE STUMPS AT 8 NORTH 10TH STREET

Documents:

[Res Approving Stump Agreement 8 N 10 St.pdf](#)
[STUMP AGREEMENT.pdf](#)

5. RESOLUTION 2019-236 APPROVING CITY STREET FINANCIAL REPORT

Documents:

[2019 STREET FINANCE REPORT.pdf](#)
[City Street Financial Report FY19 Memo.pdf](#)

6. RESOLUTION 2019-237 TO APPROVE FINAL TRANSFERS BETWEEN FUNDS FOR FISCAL YEAR 2018-2019

Documents:

[RESOLUTION TO APPROVE FINAL TRANSFERS BETWEEN FUNDS FOR FISCAL YEAR 2018-2019.pdf](#)
[Memo to Transfer Funds in FY19 through June 30 2019.pdf](#)

7. June 2019 Financial Statements

Documents:

[June 2019 Financials Memo.pdf](#)
[June 2019 Financial Statements.pdf](#)

8. RESOLUTION 2019-240 DECLARING CERTAIN PROPERTY SURPLUS PROPERTY AND AUTHORIZING SALE AND DISPOSAL THEREOF, STREET DEPARTMENT MACHINERY AND EQUIPMENT AND BUS

Documents:

[09-09-2019_2019-_Res Street and Bus Surplus.pdf](#)

9. Liquor License Renewals (November)
OPA!!! GRILL 4 W Boone St

Casey's General Store #1564 1009 W. Lincolnway
CASEY'S GENERAL STORE #3228 916 E MAIN ST
TC's 921 N 3rd Ave
haleys Deli BBQ and Catering 501 north 3rd ave

G. RESOLUTIONS

1. RESOLUTION 2019-238 APPROVING AN AGREEMENT WITH THE MARSHALLTOWN AREA CHAMBER OF COMMERCE FOR TOURISM AND PROMOTIONAL SERVICES

Documents:

[Res Approving Tourism Promo Agreement.pdf](#)
[Agreement for Tourism.Promotion.pdf](#)

2. RESOLUTION 2019-239 SETTING PUBLIC HEARING FOR 28E AGREEMENT FOR LEASE OF SPACE WITH MARSHALL COUNTY COMMUNICATIONS COMMISSION OF MARSHALLTOWN, IOWA

Documents:

[09-23-2019_2019-239_MCCC 28E Agreement.pdf](#)
[09-23-2019_2019-239_Tent Res Agrmt MCCC Commission Lease indefinite.docx](#)

3. RESOLUTION 2019-241 TO FIX A DATE FOR A PUBLIC HEARING ON PROPOSAL TO ENTER INTO A SEWER REVENUE REFUNDING LOAN AGREEMENT AND TO BORROW MONEY THEREUNDER IN A PRINCIPAL AMOUNT NOT TO EXCEED \$5,100,000

Documents:

[09-23-2019_2019-241_Set Hrg2019 Sewer RevRfdg Marshalltown422742-30-v1.pdf](#)
[09-23-2019_2019-241_Refunding Sewer Revenue bonds memo.pdf](#)

4. RESOLUTION 2019-242 APPROVING CONTRACT CHANGE ORDER #1 FOR THE PHASE 1 IOWA RIVER AND LOWER LINN CREEK LEVEE IMPROVEMENTS PROJECT # 29113005 AN INCREASE OF \$145,400.00

Documents:

[Res HR Green Change order 2019.pdf](#)
[HR Green.pdf](#)
[HR MEMO.pdf](#)

5. RESOLUTION 2019-243 APPROVING CONTRACT CHANGE ORDER #3 FOR THE HIGH STREET DRAINAGE IMPROVEMENTS PROJECT AN INCREASE OF \$19,500.00

Documents:

[Res Con-struct Change order 2019.pdf](#)
[High St 3.pdf](#)
[ConStruct High Street Memo.pdf](#)

6. RESOLUTION 2019-244 APPROVING CONTRACT CHANGE ORDER FOR THE 2017 MANHOLE AND POINT REPAIR PROJECT #59016002 FOR CON-STRUCT, INC AN INCREASE OF \$53,561.50

Documents:

[Construct.pdf](#)
[2017 Manhole and Point.pdf](#)
[09-23-2019_2019-244_MEMO ConStruct Manhole Memo.pdf](#)

7. RESOLUTION 2019-245 APPROVING AGREEMENTS FOR GENERAL ADMINISTRATION SERVICES AND HOUSING TECHNICAL SERVICES WITH REGION 6 RESOURCE PARTNERS FOR THE 2019 COMMUNITY DEVELOPMENT BLOCK GRANT AND ADOPTING REQUIRED POLICIES

Documents:

[Res for CDBG Housing Agreements Requirements.pdf](#)
[CDBG city request 05082019.pdf](#)
[Agreement General Admin Services.pdf](#)
[Agreement Housing Technical Services.pdf](#)
[Marshalltown OT Admin Plan.pdf](#)
[Certification of Compliance.pdf](#)
[CODE OF CONDUCT.pdf](#)
[Prohibition of Use of Excessive Force.pdf](#)
[PUBLIC NOTICE- Affirmative Fair Housing Policy.pdf](#)
[RARA Marshalltown.pdf](#)

8. RESOLUTION 2019-246 ORDERING CONSTRUCTION OF THE VETERANS MEMORIAL COLISEUM RENOVATION IN THE CITY OF MARSHALLTOWN, IOWA, SETTING PUBLIC HEARING ON PROPOSED PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATED COST AND DIRECTING PUBLICATION OF NOTICE TO BIDDERS, BEING PROJECT NUMBER BLD19001

Documents:

[09-23-2019_2019-246_RESOLUTION ORDERCONSTR VMC BLD19001.pdf](#)
[09-23-2019_2019-246_NPH for TR VMC Order Construction.pdf](#)

9. RESOLUTION 2019-248 AUTHORIZING EXPENDITURE AND TRANSFER OF COUNCIL DESIGNATED LOCAL OPTION SALES AND SERVICE TAX RESERVE TO PARTIALLY FUND THE 10%

LOCAL MATCH FOR THE DESIGN OF AN AIRPORT HANGAR
100' X 120' AND DESIGN OF AN AIRPORT TERMINAL BUILDING

Documents:

[Res Reallocate LOST Funds for Hangar and Terminal.pdf](#)

H. **ORDINANCES**

1. ORDINANCE 14987 TO AMEND THE CODE OF ORDINANCES,
CITY OF MARSHALLTOWN, IOWA BY AMENDING CHAPTER 77,
SCHEDULE II, NO PARKING ANYTIME, BY ADDING NO PARKING
ON 17TH STREET FROM MAIN STREET TO 220' NORTH TO THE
CREEK, SECOND READING

POSSIBLE WAIVING OF 3RD READING, NO PUBLIC HEARING
REQUIRED.

Documents:

[14987_N 17th St Letter and Pictures.pdf](#)
[14987_Ord No Parking 17th St .pdf](#)

2. AN ORDINANCE 14988 TO AMEND NUMBER OF HANDICAP
PARKING SPACES, FIRST READING

Per request: Remove one space at 311 W Main Street and add
one space on S 2nd Avenue near REM. Also includes corrections
to existing space locations.

No public hearing required, possible waiver of readings.

Documents:

[14988_requests for disabled parking changes.pdf](#)
[14988_Ordinance Handicap spaces modified REM 311 E
Main St .pdf](#)

I. **DISCUSSION**

1. Proposed Reconstruction & Expansion Of MHS Tennis And Pickle-
Ball Facility

Documents:

[Tennis Complex Memo.pdf](#)
[MHS Tennis Court Proposal Summary.pdf](#)
[High School Aerial Pic.jpg](#)
[Tennis Courts with Pickleball with COLOR \(2\).jpg](#)

2. Follow-Up Discussion: Quiet Zones

Documents:

[2019-09-18_Quiet Zone email Vision Marshalltown.pdf](#)
[QZ Memo 9.17.19.pdf](#)
[QZ Cost Opinion.pdf](#)
[QZ Improvement Displays.pdf](#)

3. New Bond Borrowing For CY2019

Documents:

[Memo for CY2019 Borrowing.docx](#)

4. Downtown New Construction Incentive

Documents:

[New Construction Incentive.pdf](#)

J. **PUBLIC COMMENT**

Members of the public may make comments on any item which was not on the agenda during this time. The speaker shall approach the microphone, and state his or her name and address. Comments shall be limited to three minutes, unless a longer comment is authorized by the Mayor. The speaker shall direct comments to the Mayor and to the Council as a whole. The Mayor and Councilors shall not engage in discussion or debate on items raised by members of the public, and no action may be taken on items raised in public comments in order to comply with open meetings laws.

K. **ADJOURN**

Please visit the City's website for the complete agenda packet and to subscribe to agenda notices and department news. www.marshalltown-ia.gov

Council Proceedings
September 9, 2019

Mayor Greer called the meeting to order at 5:30 PM, September 9, 2019, in the Council Chambers at 10 W State Street and led the pledge of allegiance. Roll call- Present: Cahill, Hoop, Isom, Lamer, Martin, Wirin. Absent: Gowdy. Mayor Greer thanked the individuals responsible for Marshalltown's Award as a Great Place in Iowa. The council held a moment of silence in memory of Councilor Gowdy's sister.

CONSENT AGENDA: Wirin moved to adopt the amended consent agenda: City Council Minutes for 8/26/2019, Special Minutes for 8/28/2019, and bill list in the amount of \$2,028,692.59; New tree trimmers Splinters Construction, LLC and John Harding; second by Isom. Motion carried 6-0.

MOTION

Martin moved to approve HyVee Party Room Liquor License transfer for events at Best Western, and to approve changes to Best Western's license for the events, second by Lamer. Motion carried 5-1, Hoop dissenting.

Wirin moved to approve Casey's General Stores' additional privilege for the sale of wine, second by Lamer. Motion carried 5-1, Hoop dissenting.

REPORT

Executive Director Amber Danielson updated the council on the call to artists and the selection committee activity for artwork at the Police and Fire building, noting 29 artists had submitted responses and the committee will be reviewing three finalists' design for the site specific artwork.

RESOLUTIONS

Wirin moved to adopt Resolution 2019-231 Accepting the West End Park Master Plan and Directing Staff to move forward with Phase 1, second by Isom. Phase 1 includes the playscape, space structure and amenities, including rain garden for storm water handling. Phase 2 includes additional parking, shelter and concessions building. Resolution adopted 6-0.

Wirin moved to adopt Resolution 2019-232, Accepting Public Safety Cameras from Marshall County Crime Stoppers, second by Martin. Chief Tupper emphasized the cameras are not traffic related. Resolution adopted 6-0.

Lamer moved to adopt Resolution 2019-233, to Accept Iowa DOT Grant Award for Airport Terminal and Hangar Improvements for the Marshalltown Municipal Airport in the amount of \$320,000.00, second by Cahill. The grant is 20% city, 80% federal funds. Resolution adopted 6-0.

ORDINANCE

Isom moved to adopt the first reading of Ordinance 14987, second by Wirin. First reading adopted 6-0.

DISCUSSION:

CVB PROMOTIONAL SERVICES. The Chamber oversees the Convention and Visitors Bureau and receives Hotel & Motel Tax monies from the city. Kinser recommended the CVB provide promotional services and is working with the Chamber President Lynn Olberding to develop marketing plans. The council will consider a resolution for services at the next council meeting.

CONSTRUCTION INSPECTION SERVICES REQUEST FOR PROPOSAL. Staff recommends setting out bids for a construction inspection service for the Veterans Memorial Coliseum Renovation project, with bids due October 28 with the intent to award bids in November or December. The council will have the ability to reject the bids, and consider the possibility to have the service in place prior to construction.

PUBLIC COMMENT:

Patricia Charlier, 204 E Linn Street, had questions about codes.

CLOSED SESSION – COLLECTIVE BARGAINING:

At 6:43 pm, Isom moved to enter into closed session pursuant pursuant to Section 20.17 subsection 3 of the Code of Iowa concerning strategy meetings of the public employer for collective bargaining purposes. The City of Marshalltown has an attorney-client relationship with Michael Galloway, Ahlers & Cooney, PC, pursuant to an engagement letter dated July 1, 2011. At 7:13 PM, Isom moved to enter into open session, second by Cahill. Motion carried 6-0. Roll call: Present: Hoop, Isom, Lamer, Martin, Wirin, Cahill.

ADJOURNED:

The meeting adjourned at 7:14 PM

Respectfully submitted,

Shari L. Coughenour, CMC, City Clerk

CITY OF MARSHALLTOWN

ATTEST:

Joel T.S. Greer, Mayor

Shari L. Coughenour, CMC, City Clerk

Buildings/Improvements

Story.Constr/1 23,139.17

Consulting & Professional Fees

Bernie.Lowe.Asc/1 2,954.00
Bolton&Menk.Inc/8 55,289.00
Fox.Engrg.Assc/2 15,419.45
Great.Wstrn.Bnk/1 50.00
Iowa.One.Call/2 355.60
Marco.Holdings/3 3,281.25
Parker,Susan/1 400.00
RDG.Planning/1 13,323.15
Wellmark.Inc./1 10,965.67

Contracts

Animal.Clinic/1 243.09
Aramark.Unfrm/3 89.62
Backdraft.Op/3 4,495.00
Bolton&Menk.Inc/2 11,135.00
CDW.Governmnt/1 5,667.83
Central.Square/1 13,551.86
Diamond.Vogel/1 120.00
Great.Wstrn.Bnk/9 3,041.83
Hoglund.Bus/1 105.00
Iowa.One.Call/1 56.00
Lansing.Bros/1 63,175.00
Logan.Contract/1 32,375.00
Marsh.Co.Landfi/5 227.70
Mtn.Aviation/1 642.00
Mtn.Wtrwrks/1 816.00
Munic.Pipe.Tool/2 74,629.19
Newman,Z/1 110.00
Open.Edge/1 -15.50
Racom.Corp/2 321,356.04
RICOH.USA.INC/1 5.76
Schendel.Pest.C/3 130.00
Sje.Rhombus/1 2,500.00
Stericycle.Inc/3 581.69
Thorp,R/2 93,400.00
Torres,G/1 4,985.75
Tyler.Technolog/2 3,541.14
Verizon.Connect/1 435.30
Watchguard.Vide/1 1,800.00
Woodruff.Constr/1 31,287.94
Xerox.Corp/1 68.24

Library Books

Great.Wstrn.Bnk/12 419.16

Medical

Medtrak.Service/1 1,405.41
Occ.Med.Plus/1 530.00
Unity.Point.Clc/3 126.00
Wellmark.Inc./3 109,286.76

Payroll.Deductions

American.Educa./1 64.41
AMS.INC/2 21.52
AXA/1 325.00
Collection.Svs./5 1,325.16
Colonial.Life/1 522.21
Fidelity.Securi/2 412.69
Fire.Union.Dues/2 1,140.00
I.R.S./6 88,046.51
IA.Treasurer/4 20,518.00
ICMA.457/11 11,752.65
Texas.Child.Sup/2 252.57
UAW.Local 893/1 148.48
United.Way/4 790.78

Payroll.Net

Payroll/1 304,968.93

Refund/Reimbursed

Bollinger,E/1 33.88
Elizarraras,E/1 368.06
Fisher.Controls/1 942.48
Great.Wstrn.Bnk/5 191.86
Harwood,C/1 92.40
IA.Treasurer/1 754.00
Mull,J/1 24.76
Wellmark.Inc./1 -173,793.96
WHITE,K/1 47.00

Rents/Leases

Nunez.Duenas,JL/1 231.00

Service/Repairs

Arnold.Motor.Su/2 30.00
Beecken,H/5 970.00
Century.Link/51 1,611.80
Centurylink.Id/5 10.21
Daves.Crane/1 780.00
Devig,T/36 2,537.60
Fahrner.Asphalt/1 18,755.66
G&S.Service/2 280.00
Gale-Hazen,E/1 180.00
Gale-Hazen,K/1 195.00
Great.Wstrn.Bnk/42 5,590.04

Heart.of.Iowa/8 3,083.98
I.C.A.P./1 337.00
IA.Dept.Insp.Ap/1 150.00
IA.Treasurer/2 15,386.00
Language.Line.S/1 27.30
LISKOWIAK,M/10 4,450.00
Marsh.Co.Treas/16 4,628.00
McAtee.Tire/2 55.00
Mediacom/1 348.55
Mtn.Aviation/2 1,473.61
Occ.Med.Plus/2 260.00
Pajic.Tuck.Pntg/1 12,450.00
Pippin,R/1 13.50
Racom.Corp/1 131.25
Scharnweber.Wtr/1 27.00
Stone.Sanit/1 1,467.70
T.S.Y.S./2 288.45
Tama.Co.Recordr/1 7.00
UBT/1 36.24
Verizon.Wireles/5 477.62
WICKHAM,M/1 375.00

Supplies/Parts

Airgas.U.S.A./3 618.19
Arnold.Motor.Su/17 539.48
Bituminous.Mat/2 649.65
Brandt,D/1 13.51
Cessford.Constr/2 2,806.03
Chamber.Commerc/2 1,570.00
City.Laundering/15 1,098.03
Clarke.Enviro.M/1 3,498.16
Cntrl.IA.Distr/1 531.70
Cntrl.IA.Farm/2 201.30
Cntrl.Office/2 184.32
Concrete/6 1,119.19
Crop.Rite.Inc/1 785.64
Dave.WrightCDRJ/1 7.36
Deluxe.Business/5 419.53
Diamond.Mfg/1 812.75
Diamond.Vogel/7 2,215.75
Entenmann.Rovin/1 222.50
Fastenal.Co/4 320.80
Galls.LLC/2 440.51
Great.Wstrn.Bnk/188 28,031.51
Hach.Co/1 35.64
Hogan.Mfg/1 204.63
Hotsy.Cleaning/1 470.00
Macqueen.Equip/2 3,839.01
Marsh.Co.Engr/24 17,219.83
Marshall.Glass/1 464.38
Martin.Marietta/2 78.79
McAtee.Tire/1 142.75
Menards/4 406.08
Midland.Scienti/6 1,293.65
Minuteman/4 632.50
Muni.Supply/2 4,709.00
Napa.Auto/1 4.90
Nutrien.Ag.Sol/3 558.99
Office.Express/4 432.85
Ohalloran.Inter/1 415.21
Oreilly.Automot/1 69.71
Praetorian.Digi/1 2,716.60
R.S.Stover/1 264.94
Skold.Door/1 450.00
Storey.Kenwrthy/1 253.65
T.S.Y.S./2 1,428.94
Tri.State.Lock/1 39.00
Van.Meter.Inc/1 720.20
Verizon.Wireles/1 756.72
Ziegler/1 410.48

Travel/Training

ALLEN,R/1 24.15
Ash,S/1 141.80
BROWN,J/1 171.21
Great.Wstrn.Bnk/5 824.38
Mauseth,B/1 19.00
Watson,T/1 35.20

Utilities

AlliantEnergy/42 42,850.37
Consumr.Energy/2 409.14
I.R.U.A./1 148.92
Mtn.Wtrwrks/13 1,097.15

Total/762

1,372,920.68

BUILDING REPORT FOR THE MONTH OF JUNE 2019

MARSHALLTOWN
IOWA

PERMIT NUMBER	OWNER OF IMPROVEMENT	LOCATION OF IMPROVEMENT	TYPE OF IMPROVEMENT	NEW DWELLING	ALTER DWELLING	MINOR BUILDING	MISC. IMPROVEMENT	FEE
25091	Wells Fargo	102 South Center St.	New Building				\$163,000	\$1,372
25092	Black Tire Bikes (storm)	117 West Main Street	Alter Building				\$52,000	\$658
25093	Adolfo Ibarra	506 East State Street	New Garage			\$11,000		\$195
25094	Gerado Camarena-Ortiz (storm)	307 North 5th Avenue	Demolish Garage					\$25
25095	Gerado Camarena-Ortiz (storm)	307 North 5th Avenue	New Garage			\$16,000		\$265
25096	Steven Smith (storm)	807 West Main Street	Demolish Garage					\$25
25097	Catherine Gooding (storm)	903 Bromley Street	Demolish Dwelling					\$25
25098	Gustavo Perez (storm)	607 West State Street	Demolish Garage					\$25
25099	Gustavo Perez (storm)	607 West State Street	New Garage			\$15,000		\$223
25100	DaJeane Spencer (storm)	1217 West Main Street	Demolish Garage					\$25
25101	DaJeane Spencer (storm)	1217 West Main Street	New Garage			\$12,000		\$209
25102	Ralph Raggio	1014 South 7th Ave.	New Shed			\$5,000		\$111
25103	Abel Chavarria	112 South 3rd Street	New Shed			\$4,000		\$97
25104	Carmen Carl	1607 West Lincolnway	New Garage			\$22,000		\$349
25105	Jesus Mares-Flores (storm)	7 North 11th Street	Demolish Garage					\$25
25106	Jesus Mares-Flores (storm)	7 North 11th Street	New Garage			\$7,000		\$139
25107	Zach Laws (storm)	1004 West Main Street	Demolish Por.Dwelling					\$25
25108	Catherine Gooding	320 North 11th Avenue	Demolish Dwelling					\$25
25109	Alano	1311 East Nevada St.	Alter Building				\$2,000	\$69
25110	Menard, Inc.	2001 South 18th Ave.	New Building				\$250,000	\$3,788
25111	Menard, Inc.	2001 South 18th Ave.	New Building				\$100,000	\$994
25112	Jeff Linton (storm)	107 North 9th Street	Demolish Garage					\$25
25113	Jeff Linton (storm)	107 North 9th Street	Alter Garage			\$7,000		\$139
25114	Terry Schnathorst	112 Nicholas Drive	Alter Building				\$146,000	\$1,270
25115	William Wrede	1321 West Church St.	Demolish Garage					\$25
25116	William Wrede	1321 West Church St.	New Garage			\$7,000		\$139
25117	Mark Eaton	1007 South 10th Ave.	Alter Garage			\$3,000		\$83
25118	Rose Freese	1112 South 4th Street	New Shed			\$3,000		\$83
25119	LeRoy Himes (storm)	206 South 15th Avenue	Demolish Garage					\$25
25120	LeRoy Himes (storm)	206 South 15th Avenue	New Garage			\$11,000		\$195
25121	Lamport/Wright Inc.	1207 South 7th Avenue	New Dwelling/Garage	\$199,000				\$1,588
25122	Orton Homes	3504 Merritt Road	New Dwelling/Garage	\$228,000				\$1,762
25123	Jim Stanton	514 Craig Circle	New Dwelling/Garage		\$245,000			\$1,864
25124	St. Mary's Church (storm)	9 West Linn Street	Alter Building				\$38,000	\$522

BUILDING REPORT FOR THE MONTH OF JUNE 2019**MARSHALLTOWN**
— I O W A —

PERMIT NUMBER	OWNER OF IMPROVEMENT	LOCATION OF IMPROVEMENT	TYPE OF IMPROVEMENT	NEW DWELLING		ALTER DWELLING	MINOR BUILDING	MISC. IMPROVEMENT	FEE
			TOTALS:	\$672,000		\$0	\$123,000	\$751,000	\$16,389
			TOTAL IMPROVEMENT AMOUNT:	\$1,546,000					
				Units	Permits	Permits	Permits	Permits	Demo Permits
Scott A. Riemenschneider, Chief Building Official			# OF PERMITS:	3	3	0	13	7	11

Building Division Improvement Value & Fee Summary - June 2019

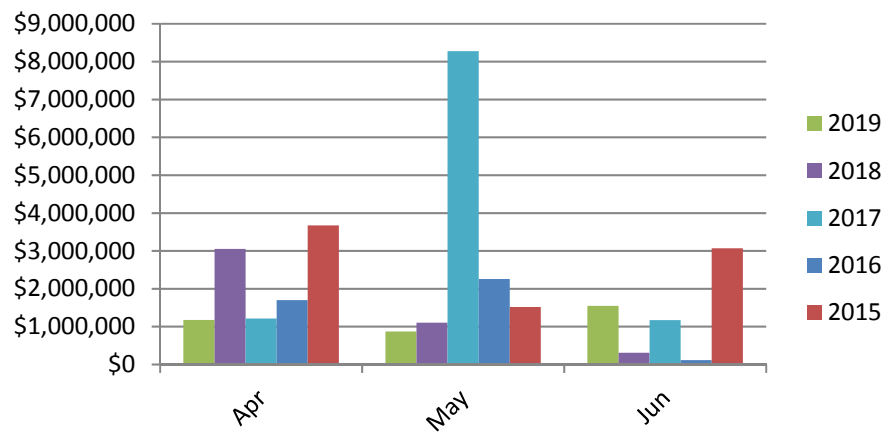
Total Improvement Value Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$903,000	\$3,132,000	\$5,177,000	\$1,176,000	\$870,000	\$1,546,000							\$12,804,000
2018	\$205,000	\$1,722,000	\$271,000	\$3,050,000	\$1,104,000	\$306,000							\$6,658,000
2017	\$74,000	\$331,000	\$7,559,000	\$1,214,000	\$8,277,000	\$1,171,000							\$18,626,000
2016	\$479,000	\$1,034,000	\$2,977,000	\$1,699,000	\$2,257,000	\$113,000							\$8,559,000
2015	\$0	\$57,000	\$941,000	\$3,671,000	\$1,516,000	\$3,067,000							\$9,252,000

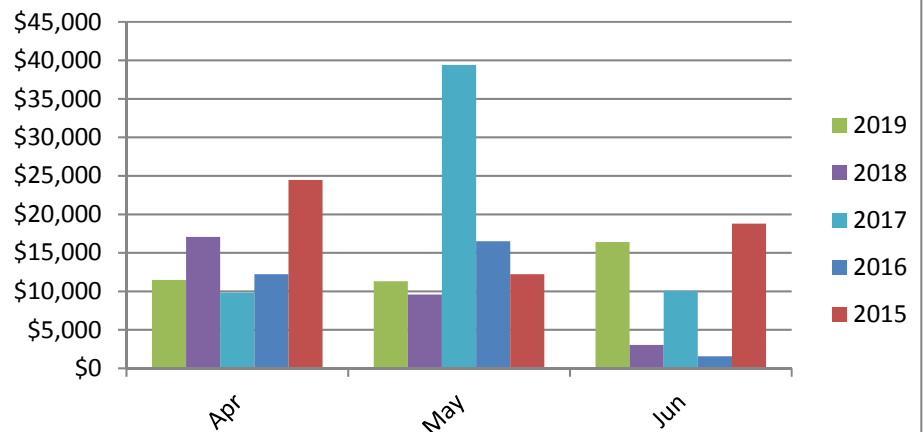
Total Fees Received Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$6,828	\$16,366	\$27,102	\$11,467	\$11,308	\$16,389							\$89,460
2018	\$1,114	\$10,996	\$3,815	\$17,067	\$9,589	\$3,038							\$45,619
2017	\$1,006	\$3,995	\$35,959	\$9,819	\$39,400	\$10,063							\$100,242
2016	\$3,860	\$7,490	\$18,014	\$12,229	\$16,500	\$1,553							\$59,646
2015	\$0	\$762	\$8,610	\$24,464	\$12,214	\$18,787							\$64,837

Total Improvement Value Comparison



Total Fees Received Comparison



BUILDING REPORT FOR THE MONTH OF JULY 2019

MARSHALLTOWN
I O W A

PERMIT NUMBER	OWNER OF IMPROVEMENT	LOCATION OF IMPROVEMENT	TYPE OF IMPROVEMENT	NEW DWELLING	ALTER DWELLING	MINOR BUILDING	MISC. IMPROVEMENT	FEE
25125	Orlando Hernandez (storm)	210 South 16th Ave.	New Shed			\$6,000		\$125
25126	McGregor's Furniture (storm)	105 West Main Street	Alter Building				\$50,000	\$644
25127	Loren Fisher	1803 South 6th Street	Alter Dwelling		\$8,000			\$153
25128	Yuri Sanchez (storm)	203 South 17th Ave.	New Shed			\$3,000		\$83
25129	Dan Oswalde	109 Helm Street	Demolish Dwelling					\$25
25130	Jose Gonzalez	107 South 16th Street	Demolish Garage					\$25
25131	Jose Regaldo	107 North Center St.	Demolish Building					\$25
25132	Karla Ramirez (storm)	11 North 9th Avenue	Alter Dwelling		\$3,000			\$83
25133	Doug Fuller (storm)	109 North 7th Street	New Garage			\$8,000		\$153
25134	Ty Davis	304 Jerome Street	Alter Dwelling		\$10,000			\$181
25135	Bryan Thompson (storm)	601 East Main Street	Alter Dwelling		\$11,000			\$195
25136	Nancy Stone (storm)	701 West Main Street	Alter Dwelling		\$8,000			\$153
25137	Helen Claussen	3 Denmead Blvd.	Alter Dwelling		\$17,000			\$279
25138	Benito Tellez	1003 South 11th Avenue	Alter Garage			\$5,000		\$111
25139	South 12th Avenue Cooperative	1007 S.12th Ave 11 & 12	New Two Unit Addition	\$229,000				\$1,768
25140	Kimberly Boyd	708 Noble Street	Demolish Garage					\$25
25141	Isidro Mancillaz	417 Swayze Street	Alter Dwelling		\$10,000			\$181
25142	Dewey Perdue (storm)	806 East Main Street	New Garage			\$14,000		\$237
25143	Chad Lawless	307 W. Meadow Lane	Alter Garage		\$7,000			\$139
25144	Michael Bond Jr. (storm)	1506 Norris Place	New Shed			\$3,000		\$83
25145	Ramon Ortega	2023 Catalina Place	New Shed			\$3,000		\$83
25146	Luis Lopez	404 Thunderbird Drive	Alter Dwelling		\$8,000			\$153
25147	Angle Hans Enterprises LC(storm)	102 East State Street	Alter Building				\$240,000	\$1,834
25148	Julie Miller	30 East Main Street	Alter Building				\$15,000	\$251
25149	House of Compassion (storm)	211 West Church St.	Alter Building				\$18,000	\$293
25150	Mike Meeks (storm)	209 South 15th Ave.	Demolish Garage					\$25
25151	Mike Meeks (storm)	209 South 15th Ave.	New Garage			\$7,000		\$139
25152	Lennox Industries, Inc. (storm)	200 South 12th Ave.	Foundation Permit				\$1,505,000	\$7,754
			TOTALS:	\$229,000	\$82,000	\$49,000	\$1,828,000	\$15,200
			TOTAL IMPROVEMENT AMOUNT: \$2,188,000					
				Units	Permits	Permits	Permits	Demo Permits
Scott A. Riemenschneider, Chief Building Official			# OF PERMITS:	2	1	9	8	5

Building Division Improvement Value & Fee Summary - July 2019

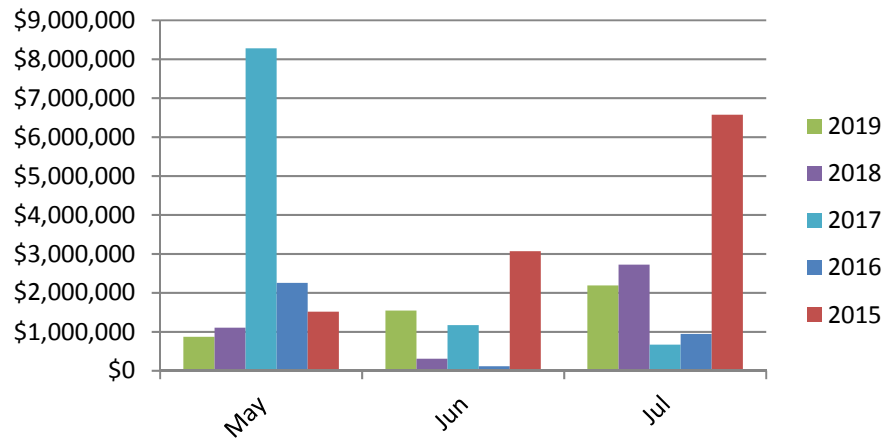
Total Improvement Value Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$903,000	\$3,132,000	\$5,177,000	\$1,176,000	\$870,000	\$1,546,000	\$2,188,000						\$14,992,000
2018	\$205,000	\$1,722,000	\$271,000	\$3,050,000	\$1,104,000	\$306,000	\$2,725,000						\$9,383,000
2017	\$74,000	\$331,000	\$7,559,000	\$1,214,000	\$8,277,000	\$1,171,000	\$671,000						\$19,297,000
2016	\$479,000	\$1,034,000	\$2,977,000	\$1,699,000	\$2,257,000	\$113,000	\$945,000						\$9,504,000
2015	\$0	\$57,000	\$941,000	\$3,671,000	\$1,516,000	\$3,067,000	\$6,572,000						\$15,824,000

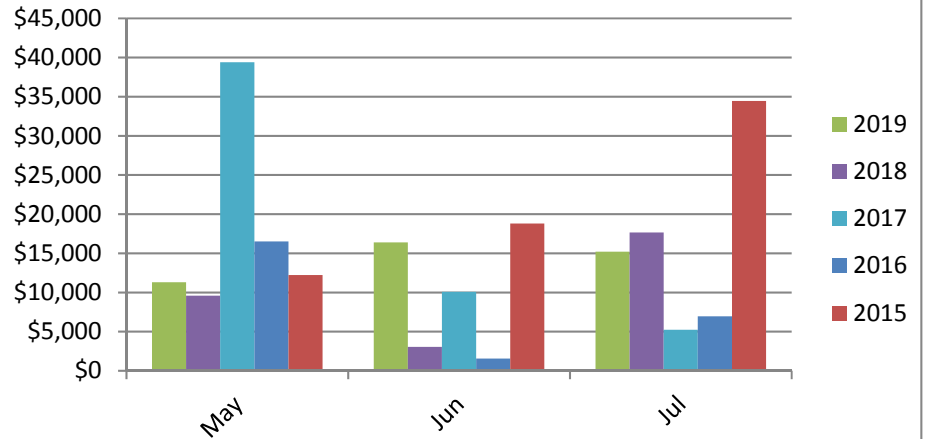
Total Fees Received Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$6,828	\$16,366	\$27,102	\$11,467	\$11,308	\$16,389	\$15,200						\$104,660
2018	\$1,114	\$10,996	\$3,815	\$17,067	\$9,589	\$3,038	\$17,654						\$63,273
2017	\$1,006	\$3,995	\$35,959	\$9,819	\$39,400	\$10,063	\$5,237						\$105,479
2016	\$3,860	\$7,490	\$18,014	\$12,229	\$16,500	\$1,553	\$6,946						\$66,592
2015	\$0	\$762	\$8,610	\$24,464	\$12,214	\$18,787	\$34,441						\$99,278

Total Improvement Value Comparison



Total Fees Received Comparison



BUILDING REPORT FOR THE MONTH OF AUGUST 2019

MARSHALLTOWN
I O W A

PERMIT NUMBER	OWNER OF IMPROVEMENT	LOCATION OF IMPROVEMENT	TYPE OF IMPROVEMENT	NEW DWELLING	ALTER DWELLING	MINOR BUILDING	MISC. IMPROVEMENT	FEE
25153	Erik Close	2215 Stratford Lane	New Shed			\$4,000		\$97
25154	Levis Ndiokubwayo	108 B North 1st Ave.	New Garage			\$4,000		\$97
25155	Tom Switzer	312 Washington St.	Demolish Garage					\$25
25156	Antonio Garcia	915 Finkle Avenue	Demolish Garage					\$25
25157	JEH Rentals LC (storm)	515 Lee Street	Alter Dwelling		\$9,000			\$167
25158	Linda Ruiter (storm)	8 North 10th Street	Alter Dwelling		\$25,000			\$392
25159	J K Eckhart	504 East State Street	Alter Dwelling		\$15,000			\$251
25160	Roberto Ibarra	2010 Catalina Place	Alter Dwelling		\$12,000			\$209
25161	Jennifer Allison & Merrill Swatz	2213 Bittersweet Rd.	Demolish Car Port					\$25
25162	Jennifer Allison & Merrill Swatz	2213 Bittersweet Rd.	Alter Dwelling		\$20,000			\$321
25163	Antonio Garcia	915 Finkle Avenue	New Garage			\$11,000		\$195
25164	Francisco Vargas	918 Jackson Street	Demolish Garage					\$25
25165	Selvin Gonzalez (storm)	107 North 8th Street	New Garage			\$5,000		\$111
25166	David Minkel (storm)	1113 West State St.	Alter Dwelling			\$25,000		\$392
25167	Mark Cruz	703 East South Street	Alter Dwelling		\$10,000			\$181
25168	Jose Cardenas	1002 South 11th Ave.	New Garage			\$9,000		\$167
25169	Gabriella Cano (storm)	24 North 1st Avenue	Alter Building				\$50,000	\$644
25170	Timothy Ruff	3105 South 14th Street	New Garage			\$18,000		\$293
25171	Ronald Slocum	1707 Summit Street	New Garage			\$16,000		\$265
25172	Steven Smith (storm)	807 West Main Street	New Garage			\$16,000		\$265
25173	Sergio Ramirez	701 North 3rd Avenue	Alter Building				\$12,000	\$209
25174	Oscar Sanchez (storm)	102 West Main Street	Alter Building				\$175,000	\$1,444
25175	James Swope	213 South 15th Avenue	New Garage			\$16,000		\$265
25176	Ron Snyder	701 West State Street	Alter Dwelling		\$14,000			\$237
25177	Isabel Lopez (storm)	412 Bromley Street	Alter Dwelling		\$2,000			\$69
25178	Patches Harris (storm)	702 East State Street	New Shed			\$3,000		\$83
25179	Deb Whiting	409 1/2 N. 2nd St.	Demolish Dwelling					\$25
			TOTALS:	\$0	\$107,000	\$127,000	\$237,000	\$6,479
			TOTAL IMPROVEMENT AMOUNT: \$471,000					
				Units	Permits	Permits	Permits	Demo Permits
Scott A. Riemenschneider, Chief Building Official			# OF PERMITS:	0	0	8	11	3

Building Division Improvement Value & Fee Summary - Aug. 2019

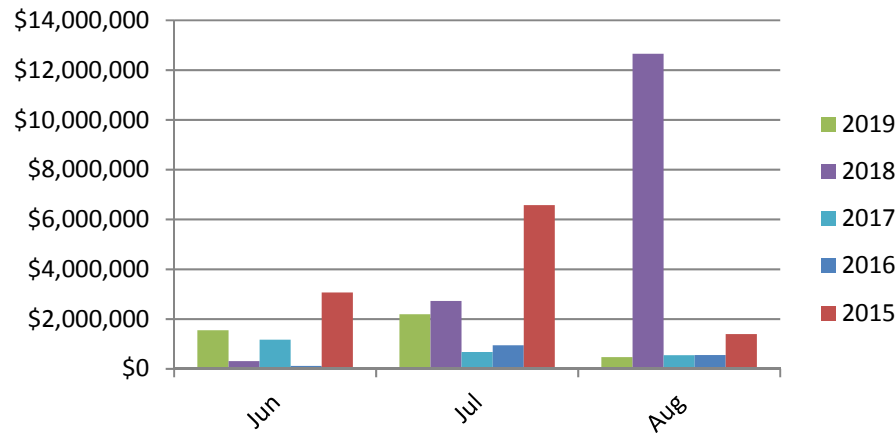
Total Improvement Value Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$903,000	\$3,132,000	\$5,177,000	\$1,176,000	\$870,000	\$1,546,000	\$2,188,000	\$471,000					\$15,463,000
2018	\$205,000	\$1,722,000	\$271,000	\$3,050,000	\$1,104,000	\$306,000	\$2,725,000	\$12,653,000					\$22,036,000
2017	\$74,000	\$331,000	\$7,559,000	\$1,214,000	\$8,277,000	\$1,171,000	\$671,000	\$547,000					\$19,844,000
2016	\$479,000	\$1,034,000	\$2,977,000	\$1,699,000	\$2,257,000	\$113,000	\$945,000	\$555,000					\$10,059,000
2015	\$0	\$57,000	\$941,000	\$3,671,000	\$1,516,000	\$3,067,000	\$6,572,000	\$1,391,000					\$17,215,000

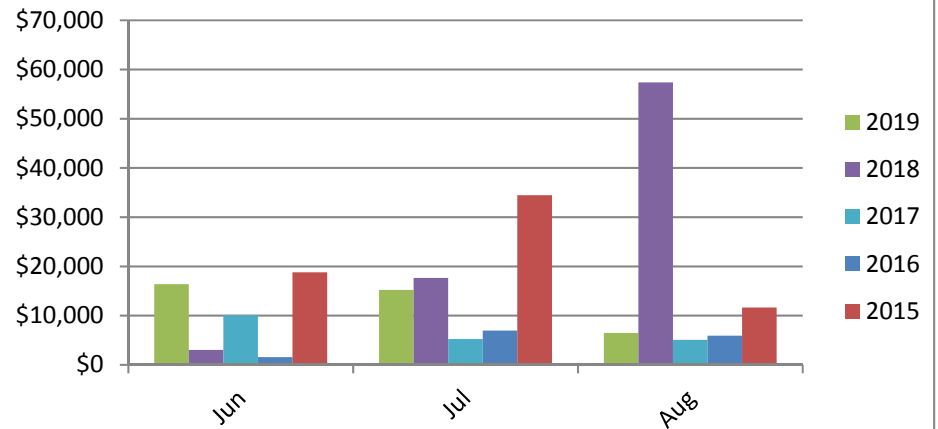
Total Fees Received Comparison

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD
2019	\$6,828	\$16,366	\$27,102	\$11,467	\$11,308	\$16,389	\$15,200	\$6,479					\$111,139
2018	\$1,114	\$10,996	\$3,815	\$17,067	\$9,589	\$3,038	\$17,654	\$57,378					\$120,651
2017	\$1,006	\$3,995	\$35,959	\$9,819	\$39,400	\$10,063	\$5,237	\$5,075					\$110,554
2016	\$3,860	\$7,490	\$18,014	\$12,229	\$16,500	\$1,553	\$6,946	\$5,912					\$72,504
2015	\$0	\$762	\$8,610	\$24,464	\$12,214	\$18,787	\$34,441	\$11,625					\$110,903

Total Improvement Value Comparison



Total Fees Received Comparison



**RESOLUTION ADOPTING SUPPLEMENT 2019-S1 TO THE
CODE OF ORDINANCES OF THE CITY OF MARSHALLTOWN, IOWA, THROUGH
ORDINANCE 14985**

WHEREAS on June 10, 2019, the City Council, pursuant to Ordinance No. 14983, readopted the Code of Ordinances of the City of Marshalltown, Iowa, in its entirety; and

WHEREAS since the Adoption of Ordinance 14983, the City Council of the City of Marshalltown, Iowa, has adopted certain ordinances amending the Code of Ordinances and said amendments have been printed as supplements to the Code of Ordinances; and

WHEREAS Supplement 2019-S1 includes Ordinances current through Ordinance 14985, adopted 7/22/2019; and

WHEREAS Section 380.8 of the Code of Iowa provides that supplements, by resolution, become part of the Code of Ordinances.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. That Supplement No. S1 of the Code of Ordinances, dated September 18, 2019, and filed in the Office of the City Clerk of the City of Marshalltown, Iowa is hereby adopted and becomes part of the Code of Ordinances of the City of Marshalltown, Iowa.

Passed this ___ day of September, 2019, and signed this ___ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

MARSHALLTOWN, IOWA CODE OF ORDINANCES

Contains 2019 S-1 Supplement, current through:
Ordinance 14985, passed 7-22-2019

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TITLE I: GENERAL PROVISIONS

Chapter

- 10. RULES OF CONSTRUCTION; GENERAL PENALTY
- 11. BOUNDARIES

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

- 10.001 Designation and citation of code
- 10.002 Rules of construction; definitions
- 10.003 Catchlines, titles, headings and notes
- 10.004 Severability of parts of code
- 10.005 Effect of repeals
- 10.006 Altering code
- 10.007 Amendments to code; effect of new ordinances; amendatory language
- 10.008 Payment of fees, fines or unsatisfied judgments; permit, license issuance
- 10.009 Minimum insurance requirements
- 10.999 Penalty

§ 10.001 DESIGNATION AND CITATION OF CODE.

The ordinances embraced in the following chapters and sections constitute and are designated the “Code of Ordinances, City of Marshalltown, Iowa” and may be so cited.

(2013 Code, § 1-1)

Statutory reference:

Codification of ordinances, see I.C.A. § 380.8

§ 10.002 RULES OF CONSTRUCTION; DEFINITIONS.

In the construction of this code, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council or repugnant to the context of the provisions. For the purpose of this code of ordinances,

Marshalltown, IA Code of Ordinances

the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Marshalltown, Iowa, and extends to its several officers, agents and employees.

CITY ATTORNEY. The chief legal officer of the city.

CLERK. The Clerk of the city.

COUNTY. The County of Marshall in the State of Iowa.

DELEGATION OF AUTHORITY. Whenever a provision or section appears requiring an officer of the city to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

GENDER. Words of one gender include the other genders.

JOINT AUTHORITY. Words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it is otherwise expressed.

LAND and **REAL ESTATE.** Land, tenements, hereditaments and all rights thereto and interest therein, equitable as well as legal.

MISDEMEANOR. Any unlawful violation of any city ordinance, upon conviction thereof, there is prescribed a punishment.

MONTH and **YEAR.**

(1) The term **MONTH** means a calendar month.

(2) The term **YEAR** means a calendar year.

NUMBER. Words importing the singular number may be extended to several persons or things, and words importing the plural number may be applied to one person or thing.

OATH and **AFFIRMATION.** The word **OATH** includes **AFFIRMATIONS** in all cases where an affirmation may be substituted for an oath and, in like cases, the word **SWEAR** includes **AFFIRM**.

OFFICIALS, BOARDS, COMMISSIONS AND THE LIKE. Whenever reference is made to officials, boards and commissions by title only (i.e., "Council", "Clerk", the "Mayor" and the like), they shall be deemed to refer to the officials, boards and commissions of the city.

PERSON. Includes and shall be applied to corporations, associations, clubs, societies, firms, partnerships, municipalities and bodies politic and corporate as well as to individuals.

PERSONAL PROPERTY. Includes money, goods, chattels, evidences of debt and things in action.

PROPERTY. Includes real and personal property.

STATE. The State of Iowa.

STREET. Any public street, highway, boulevard, avenue, alley, parkway, public place, plaza, mall or publicly owned right-of-way of easement within the limits of the city.

TENSE. Words used in the present of past tense include the future as well as the present and past.

WORDS AND PHRASES. Construed according to the context and the approved usage of the language; technical words and phrases, and such others as may have

acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

WRITTEN and **IN WRITING**. Any mode of representing words and letters in general use, except that signatures, when required, must be made by the writing or mark of the person.

(2013 Code, § 1-2)

Statutory reference:

Similar provisions, see I.C.A. § 4.1

§ 10.003 CATCHLINES, TITLES, HEADINGS AND NOTES.

The catchlines of the several sections of this code printed in boldface type, titles, headings, chapter heads, section and division heads or titles, editor's notes, cross-references and statutory references, unless set out in the body of the section itself, contained in this code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

(2013 Code, § 1-3)

§ 10.004 SEVERABILITY OF PARTS OF CODE.

The sections, divisions, sentences, clauses and phrases of this code are severable and, if any phrase, clause, sentence, division or section of this code shall be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unenforceability or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, divisions and sections of this code.

(2013 Code, § 1-4)

§ 10.005 EFFECT OF REPEALS.

The repeal of an ordinance does not revive an ordinance previously repealed, nor does it affect, any rights, which have accrued, any duty imposed or any proceedings commenced under or by virtue of the ordinance repealed.

(2013 Code, § 1-5)

Statutory reference:

Similar provisions, see I.C.A. § 4.1(26)

§ 10.006 ALTERING CODE.

It is unlawful for any person to change or amend, by additions or deletions, any part or portion of this code or to insert or delete pages or portions thereof or to alter or

tamper with such code in any manner whatsoever causing the law of the city to be misrepresented.

(2013 Code, § 1-6) Penalty, see § 10.999

§ 10.007 AMENDMENTS TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE.

(A) (1) All ordinances passed subsequent to this code of ordinances, which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion in this code.

(2) When subsequent ordinances repeal any chapter, section or division or any portion thereof, such repealed portions may be excluded from this code by omission from reprinted pages.

(3) The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances.

(B) Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in substantially the following language: "That section _____ of the code of ordinances, City of Marshalltown, Iowa, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.

(C) If a new section not existing in this code is to be added, the following language may be used: "That the Code of Ordinances, City of Marshalltown, Iowa, is hereby amended by adding a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.
(2013 Code, § 1-7)

§ 10.008 PAYMENT OF FEES, FINES OR UNSATISFIED JUDGMENTS; PERMIT, LICENSE ISSUANCE.

(A) Prior to the issuance of a license or permit by the city, the City Clerk shall make a diligent search of city records to determine if the applicant owes any fines or fees to the city, or has an unsatisfied judgment in favor of the city. If there are fines or fees due and owing, such fines or fees, or both, shall be paid in full prior to the issuance of a license or permit.

(B) If the applicant has an unsatisfied judgment in favor of the city, that judgment must be satisfied with evidence of such presented to the City Clerk, prior to the issuance of the license or permit.

(2013 Code, § 1-12) (Ord. 14542, passed 6-10-1996)

§ 10.009 MINIMUM INSURANCE REQUIREMENTS.

Marshalltown, IA Code of Ordinances

(A) Individuals obtaining a license or permit requiring insurance shall have the following minimum liability and submit the certificate of insurance with the license or permit application prior to approval of such license or permit.

(1) Automobile liability: \$1,000,000 combined single limit for bodily injury and property damage.

(2) General liability insurance:

(a) \$1,000,000 each occurrence (combined bodily injury and property damage) - premises/operations and products/completed operations;

(b) \$1,000,000 personal and advertising injury; and

(c) \$2,000,000 general aggregate.

(3) Workers compensation (statutory) and employers liability: \$500,000 per accident/\$500,000 per disease/\$500,000 policy limit.

(B) All licenses and permits issued requiring a certificate of insurance shall expire annually on the month and day indicated on the expiration date of the certificate of insurance.

(C) The certificate of insurance shall specifically evidence the amount of insurance coverage, which shall remain in effect for the term of the license, and shall provide that written notice be given to the City Clerk 30 days prior to any change of coverage or termination of policy.

(D) Individuals contracting directly with the city shall submit a certificate of insurance with at least the above stated minimum coverages and add the city as additional insured.

§ 10.999 PENALTY.

(A) *General penalty.* The doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this code or any technical code adopted in this code by reference or the omission or failure to perform any act or duty required by this code or any technical code adopted in this code by reference is, unless another penalty is specified, punishable by a fine in a sum not exceeding the maximum punishable under state law for commission of a simple misdemeanor, in addition to applicable surcharges and costs.

(2013 Code, § 1-8)

(B) *Violations - definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MUNICIPAL INFRACTION. Any violation of this code, any ordinance or code adopted by reference or the Zoning Ordinance of the city or the omission or failure to perform any act or duty required thereby is a **MUNICIPAL INFRACTION**, except a provision specifically provided under state law as a felony, an aggravated misdemeanor, a serious misdemeanor or a simple misdemeanor under I.C.A. Chs. 687 through 747, and is punishable by civil penalty as provided in this section.

OFFICER. Any employee or official authorized to enforce this code, any ordinance or code adopted by reference or the Zoning Ordinance of the city.

REPEAT OFFENSE. A recurring violation of the same section of this code, any ordinance or code adopted by reference or the Zoning Ordinance of the city, if the prior offense was committed not more than 12 months prior to the recurring violation.

(2013 Code, § 1-9)

(C) *Civil penalties for municipal infractions, continuing violations and alternative relief.*

(1) A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in the code:

<i>Schedule of Civil Penalties</i>	
First offense	Not to exceed \$750
All repeat offenses	Not to exceed \$1,000

(2) Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

(3) 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.

(4) Municipal infractions may be initially brought upon simple notice and if the person charged admits the violation, upon payment of the penalty to the City Clerk and the performance of any other act required by law to be performed, such person shall not be further prosecuted or assessed any costs or other expenses for such violation, and the city shall retain all penalties thus collected. Where a municipal infraction is not admitted upon simple notice by the person charged or where the person charged fails to perform any other act required to be performed, or both, an action seeking a penalty may be brought in state court as provided by I.C.A. § 364.22, and by the method as set out in division (D) below. Any action seeking a penalty for a municipal infraction, with or without additional relief, may be initially brought in the state court. This section does not impose a duty to initially charge all municipal infractions upon simple notice.

(2013 Code, § 1-10)

(D) *Civil citations.*

(1) Any officer may issue a civil citation to a person who commits a municipal infraction.

(2) The citation may be served by personal service or by certified mail, return receipt requested.

(3) A copy of the citation shall be sent to the Clerk of the District Court.

(4) The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(a) The name and address of the defendant;

(b) The name or description of the infraction attested to by the officer issuing the citation;

(c) The location and time of the infraction;

(d) The amount of civil penalty to be assessed or the alternative relief sought, or both;

(e) The manner, location and time in which the penalty may be paid;

(f) The time and place of court appearance; and

(g) The penalty for failure to appear in court.

(2013 Code, § 1-11)

(Ord. 14308, passed 12-11-1989; Ord. 14885, passed 5-9-2011; Ord. 14933, passed 9-8-2014; Ord. 14970, passed 11-27-2017)

Statutory reference:

Maximum penalty prescribed, see I.C.A. § 364.3

CHAPTER 11: BOUNDARIES

Section

Wards and Precincts

- 11.001 Division of city
- 11.002 First Ward; precincts
- 11.003 Second Ward; precincts
- 11.004 Third Ward; precincts
- 11.005 Fourth Ward; precincts
- 11.006 Annexed areas; inclusion

WARDS AND PRECINCTS

§ 11.001 DIVISION OF CITY.

The city is divided into four election wards with two precincts in each.
(2013 Code, § 10-16) (Ord. 14363, passed 11-12-1991)

§ 11.002 FIRST WARD; PRECINCTS.

(A) The area enclosed within the following described boundaries shall constitute the First Ward, First Precinct: commencing at the intersection of Third Avenue and Linn Street; thence east along Linn Street to its intersection with Seventh Avenue; thence north along Seventh Avenue to its intersection with Main Street; thence east along Main Street to east city limits; thence north along the east city limits to Marion Street; thence west along Marion Street to its intersection with Third Avenue; thence south along Third Avenue to East Linn Street; the point of beginning.

(B) The area enclosed within the following described boundaries shall constitute the First Ward, Second Precinct: commencing at the intersection of Third

Avenue and East Linn Street; thence north along Third Avenue to its intersection with Marion Street; thence east along Marion Street to the east city limits; thence following the northeasterly and northerly city limits, west to its intersection with Center Street; thence south along Center Street to its intersection with Third Street; thence south along Third Street to its intersection with Innes Boulevard; thence west along Innes Boulevard to its intersection with Fourth Street; thence south along Fourth Street to its intersection with Boone Street; thence east along Boone Street to its intersection with Center Street; thence north along Center Street to its intersection with Linn Street; thence east along Linn Street to its intersection with Third Avenue; the point of beginning.

(2013 Code, § 10-17) (Ord. 14678, passed 8-27-2001; Ord. 14888, passed 8-22-2011)

§ 11.003 SECOND WARD; PRECINCTS.

(A) The area enclosed within the following described boundaries shall constitute the Second Ward, First Precinct: commencing at the intersection of Fourth Street and Nevada Street; thence north along Fourth Street to its intersection with Innes Boulevard; thence east along Innes Boulevard to its intersection with Third Street; thence north along Third Street to its intersection with Center Street; thence north along Center Street to the city limits; thence westerly along the northerly and westerly city limits to its intersection with Summit Street; thence east along Summit Street to its intersection with Ninth Street; thence south along Ninth Street to its intersection with Nevada Street; thence east along Nevada Street to its intersection with Fourth Street; the point of beginning.

(B) The area enclosed within the following described boundaries shall constitute the Second Ward, Second Precinct: commencing at the intersection of Ninth Street and Nevada Street; thence north along Ninth Street to its intersection with Summit Street; thence west along Summit Street to the westerly city limits; thence south along westerly city limits to its intersection with Lincoln Way; thence east along Lincoln Way to its intersection with Twelfth Street; thence north along Twelfth Street to its intersection with Nevada Street; thence east along Nevada Street to its intersection with Ninth Street; the point of beginning.

(2013 Code, § 10-18) (Ord. 14678, passed 8-27-2001)

§ 11.004 THIRD WARD; PRECINCTS.

(A) The area enclosed within the following described boundaries shall constitute the Third Ward, First Precinct: commencing at the intersection of Linn Street and Third Avenue; thence west along Linn Street to its intersection with Center Street; thence south along Center Street to its intersection with Boone Street; thence west along Boone Street to its intersection with Fourth Street; thence south along Fourth Street to its intersection with Nevada Street; thence west along Nevada Street to its intersection with Twelfth Street; thence south along Twelfth Street to its intersection with Lincoln Way; thence westerly along Lincoln Way to the westerly-southwesterly city limits

to its intersection with Westwood Drive; thence east along Westwood Drive to its intersection with Sixth Street; thence north along Sixth Street to its intersection with Edgeland Drive; thence east along Edgeland Drive to its intersection with Third Street; thence north along 3rd Street to its intersection with Olive Street; thence east along Olive Street to its intersection with Center Street; thence north along Center Street to its intersection with South Street; thence east along South Street to its intersection with Third Avenue; thence north along Third Avenue to its intersection with Linn Street; the point of beginning.

(B) The area enclosed within the following described boundaries shall constitute the Third Ward, Second Precinct: commencing at the intersection of Olive Street and Center Street; thence west along Olive Street to its intersection with Third Street; thence south along Third Street to its intersection with Edgeland Drive; thence west along Edgeland Drive to its intersection with Sixth Street; thence south along Sixth Street to its intersection with Westwood Drive; thence west along Westwood Drive to southwesterly city limits; thence southwesterly, south and southeasterly along city limits to its intersection with Center Street; thence north along Center Street to its intersection with Olive Street; the point of beginning.

(2013 Code, § 10-19) (Ord. 14678, passed 8-27-2001)

§ 11.005 FOURTH WARD; PRECINCTS.

(A) The area enclosed within the following described boundaries shall constitute the Fourth Ward, First Precinct: commencing at the intersection of Linn Street and S. Third Avenue; thence east along Linn Street to its intersection with Seventh Avenue; thence north along Seventh Avenue to its intersection with Main Street; thence east along Main Street to its intersection with the east city limits; thence south along east city limits to the intersection of Olive Street; thence west along Olive Street to its intersection with South Third Avenue; thence north along South Third Avenue to its intersection with Linn Street; the point of beginning.

(B) The area enclosed within the following described boundaries shall constitute the Fourth Ward, Second Precinct: commencing at the intersection of Center Street and South Street; thence east along South Street to its intersection with South Third Avenue; thence south along South Third Avenue to its intersection with Olive Street; thence east along Olive Street to the east city limits; thence southwesterly along east and south city limits to its intersection with Center Street; thence north along Center Street to its intersection with South Street; the point of beginning.

(2013 Code, § 10-20) (Ord. 14678, passed 8-27-2001)

§ 11.006 ANNEXED AREAS; INCLUSION.

Any area annexed to the city upon voluntary petition shall be included in the voting precinct of the ward to which it becomes a part without further amendment to this subchapter.

(2013 Code, § 10-23) (Ord. 14129, passed 2-8-1982)

TITLE III: ADMINISTRATION

Chapter

- 30. GENERAL PROVISIONS
- 31. OFFICERS AND ORGANIZATIONS
- 32. FIRE DEPARTMENT
- 33. POLICE DEPARTMENT
- 34. CIVIL EMERGENCIES
- 35. COUNCIL MANUAL

CHAPTER 30: GENERAL PROVISIONS

Section

- 30.001 Form of government
- 30.002 Cash Flow Reserve Fund

§ 30.001 FORM OF GOVERNMENT.

The form of government of the city is the Mayor-Council form.
(2013 Code, § 2-1) (Ord. 12723, passed 6-16-1975)

Statutory reference:

Mayor-Council form of government, see I.C.A. § 372.4

§ 30.002 CASH FLOW RESERVE FUND.

(A) *Established.* The city hereby establishes a Cash Flow Reserve Fund for the purpose of setting aside moneys to be available during periods of low cash flow so as to have available moneys to cover normal and usual expenses as well as emergency needs.

(B) *Fund balance.* Moneys shall be set aside in the Cash Flow Reserve Fund until the balance thereof has reached a sum equal to 20% of the current year's operating budget for the General Fund. This means that the 20% shall fluctuate based upon each budget year and the requirements for the respective General Fund thereunder. The Council shall review annually during the budget process.

(C) *Exclusive uses.* The balance of the Cash Flow Reserve Fund shall not be invaded for any purposes not recited in division (A) above without a repeal or amendment of this section.

(D) *Required procedure.* No expenditure of cash flow reserve funds shall occur without the City Council first publishing a notice of the proposed uses and holding a public hearing thereon.

(2013 Code, § 2-6) (Ord. 14547, passed 7-8-1996)

CHAPTER 31: OFFICERS AND ORGANIZATIONS

Section

General Provisions

- 31.001 Compensation
- 31.002 Vacancy in office
- 31.003 City Administrator

Mayor and Council

- 31.015 Mayor, Council and officers; powers and duties
- 31.016 Council; number and term
- 31.017 Mayor; term

Appointive Officers

- 31.030 Offices enumerated
- 31.031 Terms
- 31.032 Duties

Organizations

- 31.045 Board of Library Trustees
- 31.046 Board of Waterworks Trustees
- 31.047 Board of Community Center Trustees
- 31.048 Park and Recreation Advisory Committee
- 31.999 Penalty

GENERAL PROVISIONS

§ 31.001 COMPENSATION.

(A) *Elected officers.* The annual compensation of elected officers of the city, as set forth in this section, shall be as follows and paid bi-weekly:

- (1) The Mayor: \$ 7,500; and
- (2) Each Council member: \$3,000.

(B) *Appointed officers and employees.* The salaries or compensation of all other officers and employees shall be in such amounts and payable at such times as shall from time to time be provided by ordinance or resolution of the Council.

(2013 Code, § 2-16) (Ord. 16, passed 8-14-1950; Ord. 10722, passed 4-13-1965; Ord. 10842, passed 12-15-1965; Ord. 12749, passed 8-11-1975; Ord. 14089, passed 10-26-1981; Ord. 14165, passed 10-10-1983; Ord. 14264, passed 12-14-1987; Ord. 14345, passed 3-25-1991; Ord. 14759, passed 2-28-2005)

§ 31.002 VACANCY IN OFFICE.

If a vacancy occurs in any office, the office shall be filled as provided by law.
(2013 Code, § 2-18) (Ord. 1, passed 8-14-1950)

§ 31.003 CITY ADMINISTRATOR.

(A) *Statement of intent.*

(1) It is the purpose and intent of the City Council to establish the position of City Administrator and to empower that position with the duties and responsibilities of overall management, direction and co-ordination of all city services, while retaining in the City Council its role as a policy making body; in enacting, implementing or modifying recommendations of the City Administrator; and in fulfilling its legal obligations.

(2) The Mayor shall continue to be the Chief Executive Officer of the city, shall, without additional compensation, act as the City Administrator when the office is vacant and shall continue his or her other duties as set forth in the Code of Iowa and the code of ordinances, except as modified hereinafter.

(B) *Position established.* The position of City Administrator is hereby established. The City Administrator shall be appointed by the City Council and shall serve at the pleasure of the Council. The City Administrator shall be qualified by education and experience as shall be established by the Council. As a minimum qualification, the City Administrator shall have graduated from a college or university of recognized standing with a Masters degree in Public Administration or a closely related field. In addition to this educational requirement, the City Administrator shall have extensive experience as a City Manager or City Administrator, which experience is preferably in the state. In lieu of the above experience requirement, the City Administrator can have any equivalent combination of experience and training, which provides the knowledge, skills and abilities necessary to perform the work.

(C) *Duties.* The City Administrator shall:

- (1) Be the Chief Administrative Officer of the city;
- (2) Supervise enforcement and execution of all laws, rules, and regulations of the city and the state and United States of America as they pertain to this city;
- (3) Carry out the policies of the City Council and attend all meetings of the City Council unless excused by the Mayor or by a majority of the Council;
- (4) Make studies of city organization, procedures, policies and facilities and recommend fiscal and other policies to the Mayor and City Council as may be expedient for efficient operation of the city;

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(5) Co-ordinate and direct all city services provided through the various departments; supervise the overall activities of said departments and delegate appropriate duties and responsibilities to the supervisors of said departments;

(6) Appoint, discipline and discharge for proper cause, subject to Council approval, and in accordance with the personnel policies of the city, the department heads of the city, except where such powers are delegated by state law. Supervise, direct and evaluate the department heads in accordance with the personnel policies of the city; appoint such assistants as may be authorized by the Council and direct their activities;

(7) Plan and supervise with the department heads the construction, improvement, repair, maintenance and management of all city property, capital improvements, and the undertakings of the city, except those managed by the Utility Board of Water Works Trustees, the Board of Library Trustees, the Board of Community Center Trustees and the Coliseum Commission;

(8) Co-operate with any other agencies or units of government or Boards of Trustees;

(9) Investigate the offices and conduct of any city department, agency, officer or employee and compel the production of records and the attendance of witnesses;

(10) Establish planning and goal setting procedures for the city;

(11) Co-ordinate all activities and interactions of the Council and the departments of the city;

(12) Assume such other duties as directed by the Council of the whole;

(13) Devote full-time to performances of duties as City Administrator and shall not engage in other employment, self-employment or other office except with the approval by a majority vote of the Council;

(14) As a condition of employment, reside within the corporate limits of the city; and

(15) Not hold any position as officer or director of, nor hold ownership of more than 5% of outstanding stock in any for-profit corporation conducting business in or with the city.

(Ord. 14315, passed 4-9-1990; Ord. 14712, passed 5-28-2003)

MAYOR AND COUNCIL

§ 31.015 MAYOR, COUNCIL AND OFFICERS; 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, this code and other ordinances, resolutions, rules and regulations of the city.

(2013 Code, § 2-2) (Ord. 12723, passed 6-16-1975)

§ 31.016 COUNCIL; NUMBER AND TERM.

The Council consists of three Council members elected at large and one Council member from each of four wards as established by ordinance, elected for terms of four years.

(2013 Code, § 2-3) (Ord. 12723, passed 6-16-1975; Ord. 12750, passed 8-15-1975; Ord. 14353, passed 8-26-1991)

§ 31.017 MAYOR; TERM.

The Mayor is elected at large for a term of four years.

(2013 Code, § 2-4) (Ord. 12723, passed 6-16-1975; Ord. 12750, passed 8-15-1975)

APPOINTIVE OFFICERS

§ 31.030 OFFICERS ENUMERATED.

The following officers shall be appointed by the City Administrator with the approval of the City Council:

- (A) Director of Public Works/City Engineer;
- (B) Fire Chief;
- (C) Police Chief;
- (D) Parks and Recreation Director;
- (E) Human Resources Director;
- (F) City Clerk;
- (G) City Attorney;
- (H) Finance Director/City Treasurer; and
- (I) Housing and Community Development Director.

(2013 Code, § 2-34) (Ord. 14369, passed 1-13-1992; Ord. 14870, passed 3-10-2010)

§ 31.031 TERMS.

Appointment of officers shall be made by the City Administrator with the approval of the City Council; the appointment of officers shall be for an indefinite duration of time. Removal of an appointee from office shall be pursuant to I.C.A. § 372.15.

(2013 Code, § 2-35) (Ord. 14369, passed 1-13-1992; Ord. 14417, passed 3-22-1993)

§ 31.032 DUTIES.

The appointees under this subchapter shall perform such duties as required by law, statute, ordinance, position description and as directed by the City Administrator. The Mayor shall continue to be the chief executive officer of the city, without additional compensation, shall act as the City Administrator when the office is vacant and shall continue his or her other duties as set forth in the state code and this code of ordinances.

(2013 Code, § 2-36) (Ord. 14369, passed 1-13-1992; Ord. 14315, passed 4-9-1990)

ORGANIZATIONS

§ 31.045 BOARD OF LIBRARY TRUSTEES.

(A) *Composition of Board; appointment.* The Board of Trustees of the Marshalltown Public Library, hereinafter referred to as the “Board”, shall consist of seven members. All Resident Trustees shall be appointed by the Mayor with the approval of the City Council. The Non-Resident Trustee member shall be appointed by the Mayor with the approval of the county’s Board of Supervisors.

(2013 Code, § 2-151)

(B) *Qualifications of members.* Six Trustees of the Board shall be bona fide citizens and residents of the city. For purposes of this section, these Trustees shall be called “Resident Trustees of the Board”. One Trustee of the Board shall be a resident of rural Marshall County. For purposes of this section, this Trustee shall be called a “Non-Resident Trustee of the Board”.

(2013 Code, § 2-152)

(C) *Terms of office; vacancies; compensation.*

(1) *Terms of office.* All appointments to the Board of Library Trustees shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number, as near as possible, to stagger the terms.

(2) *Vacancies.* The position of a Resident Trustee shall be vacant if a Resident Trustee moves permanently from the city. The position of Non-Resident Trustee shall be vacant if the Non-Resident Trustee moves permanently from the county, or moves permanently to the city. The position of Trustee shall be vacant if a Trustee is absent six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the city by a Resident Trustee, or except in the case of sickness or temporary absence from the county by a Non-Resident Trustee. Vacancies on the Board shall be filled as provided in division (A) above and the new Trustee shall serve for the unexpired term for which the appointment is made.

(3) *Compensation.* Trustees shall receive no compensation for their services.

(2013 Code, § 2-153)

(D) *Powers and duties.* The Board of Library Trustees shall have and exercise the power and duty to:

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(1) Meet and elect from its members a President, a Secretary and such other officers as it deems necessary;

(2) Have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the library;

(3) Direct and control all the affairs of the library;

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

(5) Remove, by a two-thirds vote of the Board, the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetence or inattention to duty, subject, however, to the provisions of I.C.A. Ch. 35C;

(6) Select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the Board;

(7) Authorize the use of the library by non-residents of the city and fix charges therefor;

(8) Make and adopt, amend, modify or repeal rules and regulations, not inconsistent with ordinances and the law, for the care, use, government and management of the library and the business of the Board, fixing and enforcing penalties for violations;

(9) Have exclusive control of the expenditure of all funds allocated for library purposes by the Council and of all moneys available by gift or otherwise for the erection of library buildings and of all other moneys belonging to the library including fines and rentals collected, under the rules of the Board;

(10) Accept gifts of real property, personal property or mixed property and devises and bequests, including trust funds; take the title to such property in the name of the library; execute deeds and bills of sale for the conveyance of such property; and expend the funds received by them from such gifts, for the improvement of the library;

(11) Keep a record of its proceedings;

(12) Enforce the performance of conditions on gifts, donations, devises and bequests accepted by the city by action against the City Council; and

(13) Have authority to make agreements with the local county historical associations, where such exist, and set apart the necessary room and care for such articles as may come into the possession of the associations. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are, in its judgment, of a historical and educational nature and pay for the preservation and protection out of funds allocated for library purposes. (2013 Code, § 2-154)

(E) *Power to contract with others for use of library.*

(1) *Contracting.* The Board of Library Trustees may contract with any other boards of trustees of free public libraries; any other city, school corporation, private or semiprivate organization, institution of higher learning, township or county; or

with the trustees of any county library district for the use of the library by their respective residents.

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

(2013 Code, § 2-155)

(F) *Non-resident use of the library.* The Board of Library Trustees may authorize the use of the library by non-residents in any one or more of the following ways by:

(1) Lending the books or other materials of the library to non-residents on the same terms and conditions as to residents of the city or upon payment of a special non-resident library fee;

(2) Establishing depositories of library books or other materials to be loaned to non-residents;

(3) Establishing bookmobiles or a traveling library so that books or other library materials may be loaned to non-residents; and/or

(4) Establishing branch libraries for lending books or other library materials to non-residents.

(2013 Code, § 2-156)

(G) *Library account.* All money appropriated by the Council from the General Fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the Board of Library Trustees signed by its President and Secretary. The warrant writing officer is the city's Finance Officer.

(2013 Code, § 2-157)

(H) *Annual report.* The Board of Library Trustees shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number of books circulated, the amount of fines collected and the amount of money expended in the maintenance of the library during the year, together with such further information required by the Council.

(2013 Code, § 2-158)

(Ord. 1, passed 8-14-1950; Ord. 9025, passed 2-27-1956; Ord. 12716, passed 7-8-1975; Ord. 14700, passed 9-23-2002)

§ 31.046 BOARD OF WATERWORKS TRUSTEES.

The salaries of the members of the Board of Waterworks Trustees shall be \$300 per year each, payable quarterly.

(2013 Code, § 2-169) (Ord. 17, passed 8-14-1950)

§ 31.047 BOARD OF COMMUNITY CENTER TRUSTEES.

(A) *Art gallery established.* There is established a Municipal Art Gallery, which remains open under the provisions of state law.

(2013 Code, § 2-180)

(B) *Location, allocation of space for art gallery.* The City Council does provide for the location of the Municipal Art Gallery in such rooms and space as shall be allocated to it under lease from the Fisher Foundation in the Fisher Community Center complex, to be more fully detailed in a written instrument setting forth the terms and conditions of such use.

(2013 Code, § 2-181)

(C) *Composition; appointment of members; terms and qualifications.* A Board of Community Center Trustees of seven members to be appointed by the Mayor, with the approval of the City Council, is created, and such members shall have terms and qualifications as shall be provided by state law.

(2013 Code, § 2-182)

(D) *Vacancies.* Vacancies in the Board of Community Center Trustees shall be determined as provided under state law.

(2013 Code, § 2-183)

(E) *Conflict of interest.* Neither the city, nor the Board of Community Center Trustees, as is provided for in this section, shall have any interest in or control over any paintings or other art objects as may be owned by the Fisher Foundation or any member of the Fisher family now in place in the Fisher Community Center or as may be added thereto in the future and the location for the display of such paintings or other art objects shall not in any manner be controlled by the Board of Trustees of the Municipal Art Gallery.

(2013 Code, § 2-184)

(F) *Powers and duties.* The Board of Community Center Trustees shall have and exercise the power to:

(1) Meet and organize by the election of one of its number as President of the Board, and by the election of a Secretary and such other officers and committees as the Board may deem necessary;

(2) Except as to the provision of division (E) above, have charge, control and supervision of the public art gallery, its works of art or works of art entrusted to its care and supervision, the rooms or space allotted to it under lease arrangements of the city and of all fixtures, equipment and materials provided for its use;

(3) Provide for use of the public art gallery by the public to the extent possible and promote the teaching and appreciation of art in its broadest aspects for the cultural enhancement of the city and the surrounding community;

(4) Accept on behalf of the city gifts or works of art; select and make purchases of pictures, portraits, paintings, statuary and relics, and other objects of art, in the original and in replicas or copies, books, periodicals, papers and journals on the subject of art, furniture, fixtures, stationery and supplies for such art gallery;

(5) Receive, hold and dispose of all gifts, donations, devises and bequests that may be made to the city for the purpose of establishing, increasing or improving such art gallery; but, when any such gift, donation, devise or bequest shall be conditioned upon any act of the city, the City Council must first determine whether such condition can or shall be complied with;

(6) Make and adopt, amend, modify or repeal bylaws, rules, regulations, not inconsistent with law, for the care, use, government and management of such art gallery and the business of the Board, fixing and enforcing penalties for the violation thereof; and

(7) Have exclusive control of the expenditures of all moneys allocated by the Council, as provided by law, and of the expenditure of all moneys available by gift or otherwise for the erection of art buildings or for the promotion of such art galleries and of all other money belonging to the Art Gallery Fund.

(2013 Code, § 2-185)

(G) *Allocation of funds for maintenance and acquisitions of art gallery.* The City Council shall levy each year such sum as shall provide for the leased space allotted to the Municipal Art Gallery and for such amount as shall be determined for maintenance purposes or the acquisition of equipment or art objects as related thereto.

(2013 Code, § 2-186)

(H) *Disbursement of appropriated funds.* Money from the General Fund appropriated to the Board of Community Center Trustees for its use and purposes, as provided in this section or as authorized by statute, shall be paid out by order of the Board of Community Center Trustees and signed by its President.

(2013 Code, § 2-187)

(I) *Annual report.* The Board of Community Center Trustees shall make an annual report to the City Council at the close of the year covering in detail money received and paid out, any gifts or donations and any material information pertaining to its functioning or operation.

(2013 Code, § 2-188)

(J) *Mutilation, destruction of art objects; violation of rules.* It shall be unlawful for any person to mutilate, mar, deface, mark, destroy or in any way damage any art object, belonging to or under control of the Board of Community Center Trustees or to violate any of its rules established for its operation.

(2013 Code, § 2-189)

(Ord. 11621, passed 1-12-1969; Ord. 13806, passed 9-22-1980; Ord. 14970, passed 11-27-2017) Penalty, see § 31.999

§ 31.048 PARK AND RECREATION ADVISORY COMMITTEE.

(A) *Created.* There is created and established a Park and Recreation Advisory Committee consisting of seven members, being seven citizen members, who have an interest in park and recreation matters and who have attained the age of 18 and shall reside within the corporate limits of the city. Members shall be appointed by the Mayor with the consent and approval of the Council. Committee members shall serve without compensation, but may receive reimbursement for expenditure of personal funds

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related to Committee business upon approval of the city's Finance Director. Reimbursement may require advance approval. Two of the seven members shall be veterans, regardless of affiliation with a veteran's organization.

(2013 Code, § 2-201)

(B) *Terms of office.*

(1) All Committee members shall be appointed for two years, commencing January 1 of the year of appointment.

(2) Notwithstanding division (F) below, the first meeting of this Committee shall be called by the Mayor.

(2013 Code, § 2-202)

(C) *Reappointments.* Any member appointed to a term on the Park and Recreation Advisory Committee may be reappointed for successive terms without limitation.

(2013 Code, § 2-203)

(D) *Election of officers.* The Park and Recreation Advisory Committee shall meet and shall elect from its own membership a Chairperson to serve for one year, and may provide for such other subcommittees as may be deemed necessary to fully exercise its functions, subject to final control of the entire membership of the Committee.

(2013 Code, § 2-204)

(E) *Regular meetings.* The Park and Recreation Advisory Committee shall hold during a year at least six regular meetings at a time and place fixed by its rules and may hold special meetings upon call of the Chairperson or by four members joining in such call upon at least one day's written notice prior thereto. Four members shall constitute a quorum for the transaction of any matter of business coming before it.

(2013 Code, § 2-205)

(F) *Duties and functions.* The Park and Recreation Advisory Committee shall:

(1) Work in harmony with the City Council and the Park and Recreation Director to develop a five-year master plan of park development and maintenance;

(2) Evaluate trends in recreation activities to be carried out by the Park and Recreation Director;

(3) Report to the Council from time to time regarding developments;
and

(4) Make recommendations for operation of the city park system, recreation programs, trails, swimming programs and municipal band, including the setting of fees for use of facilities, including rental shelters which were previously set by City Council resolution.

(2013 Code, § 2-206)

(Ord. 14457, passed 3-28-1994; Ord. 14823, passed 1-28-2008; Ord. 14897, passed 2-27-2012; Res. 2018-155, passed 8-29-2018)

§ 31.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Anyone violating the provisions of § 31.046 of this chapter for any offense, as is set forth in § 31.046(J) of this chapter, shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.
(2013 Code, § 2-190) (Ord. 11621, passed 1-12-1969; Ord. 14970, passed 11-27-2017)

CHAPTER 32: FIRE DEPARTMENT

Section

False Alarms

- 32.001 Definitions
- 32.002 Application
- 32.003 Excessive false alarms; service fee

Fire Department

- 32.015 Composition; appointment of members
- 32.016 Suspension or discharge of Fire Chief
- 32.017 Interfering with fire officer or firefighter in performance of duty
- 32.018 Fire Chief; administration and powers
- 32.019 Service beyond corporate limits

- 32.999 Penalty

FALSE ALARMS

§ 32.001 DEFINITIONS.

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

ALARM MONITORING SERVICE. A business providing the function of receiving on a continuous basis, through trained employees, emergency signals from alarm systems and, thereafter, relaying a message by line voice to the Fire Department.

ALARM SYSTEM. Any device, whether mechanical, electrical or otherwise, which creates, produces, generates or relays any sound signal or message, whether audible or not, in order to detect any fire or other emergency which summons the Fire Department.

ALARM USER. The person, firm, corporation or entity of any kind in control of any building, structure or facility that purchases, leases, contracts for or otherwise contains an alarm system other than a burglar or holdup alarm system.

ANNUNCIATOR. The part of an employee system that communicates the fact that the system has been triggered or activated.

AUDIBLE OR VISUAL ANNUNCIATOR. An annunciator which gives alarm by means of a bell, siren, buzzer, flashing light or similar sound- or light-producing device when activated, which is mounted at some location which is clearly visible when observed or clearly audible at a distance of 50 feet or more outside of any building in which it is mounted. **ANNUNCIATORS** can communicate directly with the Fire Department or indirectly through the use of an alarm monitoring service or remote monitoring point.

FALSE ALARM. An occasion that has resulted in a response by the Fire Department to the activation of any alarm system because of malfunction, mechanical or electrical defect, improper installation or improper operation or procedure by any person and no actual fire or other emergency occurred requiring an immediate or emergency response by Fire Department personnel. The term **FALSE ALARM** does not include an alarm system activated as a result of: any malfunction of equipment owned or operated by the telephone company or resulting from the authorized servicing, testing, maintenance, adjustments, alterations or installations of such alarm system; a power outage; or utility construction; provided that, the respective permittee or authorized agent thereof notified the Chief of the Fire Department prior to commencement of any of such activities. The term **FALSE ALARM** does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user. The term **FALSE ALARM** does not include activation of an alarm system caused by an unauthorized activation in a public building of an alarm required by law to be located in an area open to the public or students of an educational institution; provided, such alarm system is in conformity with all applicable laws and regulations. The burden of proving that such alarm was not a **FALSE ALARM** shall be on the alarm user.

FIRE CHIEF. The Chief of the city's Fire Department or any person designated by him or her and authorized to administer this subchapter.
(2013 Code, § 12-96) (Ord. 14253, passed 4-27-1987)

§ 32.002 APPLICATION.

This subchapter shall apply to all automatic alarms that are responded to by the city's Fire Department.
(2013 Code, § 12-97) (Ord. 14253, passed 4-27-1987)

§ 32.003 EXCESSIVE FALSE ALARMS; SERVICE FEE.

(A) Where an alarm system malfunctions and/or produces chronic or excessive false alarms and the Fire Chief has determined that such malfunctions or false alarms are in excess of the number of such false alarms allowed under this subchapter, the Chief shall assess a service fee for such excess alarms. **EXCESS FALSE ALARMS** shall mean more than five per calendar year.

(B) (1) Whenever an alarm system has been determined by the Fire Chief to transmit an excessive number of false alarms and a service fee has been charged,

the service fee may be waived by the Fire Chief upon demonstration by the alarm user that the alarm user has caused correction of any problem or equipment which was the basis for the service charge in a manner satisfactory to the Fire Chief.

(2) The fee for excessive false alarms shall be determined by the following table:

<i>False Alarms Per Calendar Year</i>	<i>Amount Per False Alarm</i>
6 to 9	\$50
10 to 14	\$75
15 or more	\$100

(2013 Code, § 12-98) (Ord. 14253, passed 4-27-1987; Ord. 14514, passed 11-13-1995)

FIRE DEPARTMENT

§ 32.015 COMPOSITION; APPOINTMENT OF MEMBERS.

The Fire Department shall consist of the Fire Chief, a Deputy Chief, and a Fire Marshal and such number of Captains, Lieutenants, and firefighter/EMT's, as the Council shall fix.

(2013 Code, § 12-24) (Ord. 11, passed 8-14-1950; Ord. 8048, passed 3-28-1951)

§ 32.016 SUSPENSION OR DISCHARGE OF FIRE CHIEF.

The City Administrator may suspend or discharge for cause, the Chief of the Fire Department and select the Deputy Fire Chief to act in the capacity of Chief of the Fire Department during such suspension or vacancy and until the Chief is restored or a successor is appointed.

(2013 Code, § 12-27) (Ord. 11, passed 8-14-1950; Ord. 8142, passed 7-10-1951)

§ 32.017 INTERFERING WITH FIRE OFFICER OR FIREFIGHTER IN PERFORMANCE OF DUTY.

It shall be unlawful to hinder or interfere with any officer or firefighter in the performance of his or her duty as a member of the Fire Department.

(2013 Code, § 12-28) (Ord. 11, passed 8-14-1950) Penalty, see § 32.999

§ 32.018 FIRE CHIEF; ADMINISTRATION AND POWERS.

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As Chief of the Fire Department, the following duties and powers shall be assumed:

- (A) Shall act as the authority having jurisdiction and shall enforce all ordinances, laws and orders of the State Fire Marshal dealing with precautions against fire;
 - (B) Shall provide general supervision of the Fire Department;
 - (C) Shall have command, control, and direction of all members and equipment of the Fire Department;
 - (D) Shall prescribe entry limits in the vicinity of any fire;
 - (E) Shall, when it becomes necessary to check or control any fire, have power to order any fence, building, or structure of any kind to be cut down or removed;
 - (F) Shall have the power, with consent of the City Administrator, to tear down any portion of any building that may be standing after a fire, which, in his or her judgment, may be dangerous to persons or property;
 - (G) Shall have the power to cause the removal of all wires or the turning off of all electrical power whenever firefighter safety is in jeopardy;
 - (H) Shall have the power to enter any house, building, or yard weekdays between 7:00 a.m. and 6:00 p.m. or any time agreed upon with a property owner, for the purpose of making an inspection;
 - (I) Shall have the power, when dangerous conditions exist, to order the removal of combustibles such as rubbish, wood, hay, straw, paper, or other products liable to ignite from the building or property. A written order shall be issued with a time frame for compliance; and
 - (J) Shall prepare and present an annual report of Fire Department activity to the Council.
- (2013 Code, §§ 12-41 - 12-44, 12-46 - 12-50) (Ord. 9, passed 8-14-1950)

§ 32.019 SERVICE BEYOND CORPORATE LIMITS.

- (A) Fire service of the city is extended to all city-owned property lying outside the city limits, including property of the city waterworks and airport.
 - (B) Fire service of the city is extended to outside fire departments in which a 28E Agreement for mutual aid has been executed. On request, one apparatus with equipment requested shall respond. Off-duty personnel shall be called back to ensure minimum staffing requirements.
- (2013 Code, §§ 12-60 - 12-64) (Ord. 12, passed 8-14-1950; Ord. 8463, passed 1-26-1953; Ord. 8764, passed 1-24-1955; Ord. 14233, passed 6-23-1986)

§ 32.999 PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Anyone violating any of the sections of §§ 32.015 through 32.019 of this chapter shall, upon conviction, be subject to the penalties provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 12-31) (Ord. 11, passed 8-14-1950)

CHAPTER 33: POLICE DEPARTMENT

Section

Police Department

- 33.001 Extension of services outside city limits
- 33.002 Department composition
- 33.003 Assistant Chief of Police; appointment; qualifications; removal
- 33.004 Rules and regulations
- 33.005 Police officers; general duties
- 33.006 Service of warrants and other processes
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Alarm Systems

- 33.020 Definitions
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- 33.022 False alarms
- 33.023 Service availability for system malfunction
- 33.024 Responsibility for alarm response
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Reserve Police Force

- 33.035 Establishment
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- 33.040 Grounds for dismissal
- 33.041 Carrying firearms
- 33.042 Conflicting rules, regulations or bylaws
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- 33.999 Penalty

POLICE DEPARTMENT

§ 33.001 EXTENSION OF SERVICES OUTSIDE CITY LIMITS.

Police services of the city are extended to all city-owned property lying outside of the city limits, including the property of the city's Water Works and the Airport.
(2013 Code, § 24-1) (Ord. 14233, passed 6-23-1986)

§ 33.002 DEPARTMENT COMPOSITION.

- (A) The Police Department shall consist of the following:
- (1) A Chief of Police, who shall be the principal law enforcement and administrative officer of the Police Department;
 - (2) An Assistant Chief of Police, who shall act for the Chief of Police when he or she is unable to perform his or her duties as Chief and who shall be appointed by the Chief of Police as provided by law and Department regulations;
 - (3) Captains, who shall be appointed by the Chief of Police as provided by law and Department regulations. The Chief of Police and the City Council shall establish the number of captains by resolution from time to time as required;
 - (4) Lieutenants, who shall be appointed by the Chief of Police as provided by law and Department regulations. The Chief of Police and the City Council shall establish the number of lieutenants by resolution from time to time as required;
 - (5) Sergeants, who shall be appointed by the Chief of Police as provided by law and Department regulations. The Chief of Police and the City Council shall establish the number of sergeants by resolution from time to time as required; and
 - (6) Police officers, who shall be appointed to the Police Department as provided by law and Department regulations, and the authorized number shall be as the Council may set by resolution.
- (B) All members of the Police Department, regardless of rank or rating, shall be subject to such duty assignments as shall be directed by the Chief of Police or by the Mayor, so as to promote efficiency and elasticity in the functioning of the Police Department.
(2013 Code, § 24-12) (Ord. 10, passed 8-14-1950; Ord. 8597, passed 1-27-1954; Ord. 12240, passed 5-3-1973; Ord. 12786, passed 9-22-1975; Ord. 13033, passed 12-13-1976; Ord. 13352, passed 5-22-1978; Ord. 14176, passed 3-12-1984)

§ 33.003 ASSISTANT CHIEF OF POLICE; APPOINTMENT; QUALIFICATIONS; REMOVAL.

- (A) The Assistant Chief of Police shall be appointed by the Chief of Police from the qualified members of the Police Department from the standing civil service promotion list and shall have not less than five years continuous service and shall be subject to competitive tests or examinations under the Civil Service Commission.
(2013 Code, § 24-14)
- (B) The Assistant Chief of Police shall hold his or her position at the pleasure of the Chief of Police and may be removed at any time by written order, stating the

reasons therefor and filed with the City Clerk. There shall be no appeal from such removal order.

(2013 Code, § 24-15)

(C) The Assistant Police Chief shall be second in rank and position in the Police Department and, in the absence of the Chief of Police, shall be in full charge and control of the Police Department and shall perform all functions and duties of the Chief of Police and be responsible to the Chief of Police for the performance of his or her duties.

(2013 Code, § 24-17)

(Ord. 10860, passed 12-29-1965)

§ 33.004 RULES AND REGULATIONS.

(A) The City Council may, by resolution, adopt such rules and regulations for the Police Department as it may deem needful and proper, not inconsistent with state law or with the provisions of this subchapter. The Chief of the Police Department is authorized and directed from time to time, subject to the approval of the City Council, to make such rules and regulations or amend such rules and regulations, as may be necessary, to carry out the intent of this subchapter and to govern the affairs and conduct of the Police Department in all respects and particulars.

(B) The Chief of the Police Department is authorized and directed to make rules, subject to the approval of the City Council, to:

- (1) Dispose of surplus equipment items with an estimated value of \$7,500 or less;
- (2) Dispose of property seized in criminal cases;
- (3) Close streets temporarily up to 72 consecutive hours;
- (4) Approve of temporary parking on the wrong side of the street for up to 72 consecutive hours; and
- (5) Approve of in-state travel for employees of the Police Department.

(2013 Code, § 24-19) (Ord. 10, passed 8-14-1950; Ord. 12786, passed 9-22-1975; Ord. 14609, passed 12-30-1998)

§ 33.005 POLICE OFFICERS; GENERAL DUTIES.

(A) It shall be the duty of every member of the Police Department to promptly obey and carry out all lawful demands or commands of his or her superior, and any member of the Department who may be suspended, as by law provided, shall receive no pay or compensation during the period of suspension.

(B) It shall be the duty of each member of the police force to lawfully arrest all persons in the city found in the act of violating any law or ordinance, or aiding or abetting an any such violation, or any person whom the officer has reasonable grounds for believing has committed a public offense and who is likely to escape before a complaint can be filed and a warrant issued for his or her arrest.

(2013 Code, § 24-21) (Ord. 12786, passed 9-22-1975)

§ 33.006 SERVICE OF WARRANTS AND OTHER PROCESSES.

Each member of the police force shall have power and authority, in the city, to serve and execute warrants and other processes for the apprehension and commitment of persons charged with any crime held for examination or trial or taken in execution or the commission of any crime or misdemeanor. No member of the Police Department shall serve any civil process, except where the city is a party, or do any other business or service that will interfere with his or her duties as a police officer.

(2013 Code, § 24-22) (Ord. 10, passed 8-14-1950; Ord. 12786, passed 9-22-1975)

§ 33.007 SPECIAL POLICE.

(A) The Mayor, in cooperation with the Chief of Police, may, from time to time, when it appears necessary and proper in the detection or solution of crime or in the apprehension of suspected offenders, appoint not to exceed three persons at any one time to act as special police. Such appointments shall be in writing and shall fix the term of appointment to be not more than 30 days, and the Mayor may terminate such appointment without notice.

(B) The compensation of such special police shall be fixed by the Mayor, but shall not exceed the sum of \$10 per day.

(C) All special police officers shall be casual employees only and shall not be under civil service or entitled to any of the rights or privileges of the civil service law.

(2013 Code, § 24-25) (Ord. 10, passed 8-14-1950)

ALARM SYSTEMS

§ 33.020 DEFINITIONS.

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

ALARM BUSINESS. The business of selling, leasing, maintaining, inspecting, serving, repairing, replacing, altering, moving or installing any alarm system.

ALARM SYSTEM. Either a burglar or holdup alarm system.

AUDIBLE ALARM. An alarm system which, when actuated, generates an audible sound on the premises. This **AUDIBLE ALARM** may or may not be combined with a method of transmitting a signal to a remote point.

BURGLAR ALARM SYSTEM. A method of detecting and signaling the presence, entry or attempted entry of an intruder into protected premises.

CENTRAL STATION. Premises, usually maintained by an alarm company, equipped to receive and display signals from intruder alarm systems.

CITY. This city or such officers or employees as may be designated by this chapter to have specific duties in relation to this chapter.

FALSE ALARM. An alarm signal necessitating response by police or other public safety agency where an emergency situation does not exist.

PROTECTED PREMISES. The part of a building to which protection is afforded by an alarm system.

RESPONSIBLE PARTY. An individual, corporation or organization having an ownership interest in or control over an alarm system.

SILENT ALARM. An alarm signal transmitted in such a manner that any intruder into the premises is not aware of the signal.

(2013 Code, § 17-219) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

§ 33.021 ALARM SYSTEM STANDARDS.

Under this chapter, residential and business alarms may be connected to the Police Department through commercial alarm companies or through self-dialing systems. Such connections shall be at the owner's expense.

(2013 Code, § 17-220) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

§ 33.022 FALSE ALARMS.

(A) Each alarm having its alarm terminate at the police station, either silent, telephonic or having an outside audible (local) alarm on the premises within the meaning of this chapter will be allowed no more than two false alarms in any calendar year. For every false alarm over two during the calendar year, the responsible party shall be billed a service fee at a rate established by the City Council by resolution. Such billing shall be made monthly by the city. An authorized test of the alarm system shall not be considered a false alarm, providing notice of such test has been relayed to the Police Department and approved by the Police Department prior to such testing. The service fee shall be assessed against the occupant of the address protected by the alarm. The Police Chief shall have discretion to waive the service fee for good cause.

(B) It shall be unlawful to intentionally cause a false alarm. If any alarm business, alarm agent or owner, operator, proprietor or employee of a premises where an alarm system is installed causes a false alarm intentionally, the Police Chief may revoke or suspend the privilege of the alarm connection to the Police Department.

(C) The Police Chief shall have authority to determine if an excessive number of false alarms are resulting from the operation of any alarm system. When such a determination is made, the Police Chief shall inform the subscriber or the proprietor, owner or operator of the alarm system that an excessive number of false alarms have occurred. If, in the opinion of the Police Chief, excessive numbers of false alarms continue to occur, the Chief shall have the authority to suspend or revoke the service provided. It shall be unlawful to intentionally cause a false alarm punishable as provided in § 33.999 of this chapter and, if a false alarm is caused intentionally by any alarm business, alarm agent or the owner, operator, proprietor or employee of a premises where an alarm system is installed, the Police Chief may revoke or suspend the service

at once. Nothing in this section shall be construed to prohibit testing of a system with notice given to the Police Chief.

(2013 Code, § 17-221) (Ord. 14626, passed 6-28-1999) Penalty, see § 33.999

§ 33.023 SERVICE AVAILABILITY FOR SYSTEM MALFUNCTION.

Under this chapter, each alarm is the property and responsibility of the owner, not the city. If a system malfunction occurs, it shall be the owner's responsibility to either disable or repair the alarm system within a reasonable time period. Failure to comply may result in assessment of a service fee determined by Council, plus the cost the city may incur to disable the alarm.

(2013 Code, § 17-222) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

§ 33.024 RESPONSIBILITY FOR ALARM RESPONSE.

Under this chapter, every responsible party having control or ownership of an alarm system, audible or silent, shall, upon notification that the alarm system is giving or has given a signal, proceed immediately to that premises and render all necessary service; provided, however, that, the owner or person in control of the premises may enter into an agreement with an alarm business, licensed private detective agency or watch service to assume the duty to respond instead. The responsible party or agent shall, upon installation or activation of the alarm system, notify the Police Department in writing as to the alarm type, address and planned response. Failure to respond to an alarm or to notify the Police Department of the installation activation or change in an alarm may cause the Police Chief to assess a service fee of \$25 for each failure or for any changes in the alarm system to which the Police Department is not notified.

(2013 Code, § 17-223) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

§ 33.025 ALARM DEVICES TERMINATING AT CITY FACILITIES.

(A) A burglar or holdup alarm may terminate and give a signal at the police station.

(B) Any alarm company having such alarm panel terminating at the police station shall be billed \$1,000 per year for the service.

(C) The Police Chief may set standards and rules and regulations governing such equipment and may limit the number of alarm systems so terminating.

(2013 Code, § 17-224) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

§ 33.026 BUSINESS LICENSE TAX UNAFFECTED.

Nothing contained in this chapter shall be construed as a waiver or exemption from any business license tax otherwise applicable.

(2013 Code, § 17-225) (Ord. 14459, passed 5-9-1994; Ord. 14508, passed 9-11-1995)

RESERVE POLICE FORCE

§ 33.035 ESTABLISHMENT.

(A) There is created and established the city's Reserve Police Force as provided by I.C.A. Ch. 80D, and subject to the regulations therein contained.

(B) The Reserve Police Force shall serve until abolished by the City Council.
(2013 Code, § 24-61) (Ord. 14130, passed 2-8-1982)

§ 33.036 MEMBERSHIP; BYLAWS, RULES AND REGULATIONS.

Membership in the Reserve Police Force shall be as prescribed in such Reserve's bylaws, rules and regulations. The Chief of Police may, from time to time, prescribe such other bylaws, rules and regulations as he or she, in his or her sole discretion, may deem to be desirable. The Mayor and the Chief of Police shall approve all rules, regulations or bylaws of the Reserve.

(2013 Code, § 24-62) (Ord. 14130, passed 2-8-1982)

§ 33.037 TERMS; REMOVAL OF MEMBERS.

(A) The members of the Reserve Police Force shall serve at the discretion of the Chief of Police and shall be removed and discharged from the Reserve at any time upon violation of any bylaw, rule or regulation prescribed or upon recommendation of the Reserve Police Executive Committee.

(B) There is no appeal to a removal order from the Chief of Police.
(2013 Code, § 24-63) (Ord. 14130, passed 2-8-1982)

§ 33.038 SUPERVISION BY POLICE DEPARTMENT.

The members of the Reserve Police Force shall be subject to lawful orders of a member of the city's Police Department.

(2013 Code, § 24-64) (Ord. 14130, passed 2-8-1982)

§ 33.039 EMPLOYEE STATUS OF MEMBERS.

(A) Members of the Reserve Police Force shall be considered city employees during those periods when they are performing police duties as authorized and directed

by the Chief of Police or the Assistant Chief, in the absence of the Chief, and they shall receive a salary of \$1 per year.

(B) However, the reserve members shall not be entitled to any benefits or obligations of police retirement benefits or civil service.
(2013 Code, § 24-65) (Ord. 14130, passed 2-8-1982)

§ 33.040 GROUNDS FOR DISMISSAL.

No member of the Reserve Police Force shall violate the city ordinances or the laws of the state or the United States and such violation may be grounds for summary dismissal.
(2013 Code, § 24-66) (Ord. 14130, passed 2-8-1982)

§ 33.041 CARRYING FIREARMS.

Members of the Reserve Police Force shall not, at any time, carry any firearms, except as provided by I.C.A. § 80D.7.
(2013 Code, § 24-67) (Ord. 14130, passed 2-8-1982)

§ 33.042 CONFLICTING RULES, REGULATIONS OR BYLAWS.

Any rule, regulation, constitution or bylaw of the Reserve Police Force, inconsistent with or in violation of this subchapter or the rules and regulations of the city's Police Department, is repealed.
(2013 Code, § 24-68) (Ord. 14130, passed 2-8-1982)

§ 33.043 OTHER RULES.

(A) The Chief of Police shall determine the number of Reserve officers and set their rank structure.

(B) The Chief of Police may also create other Reserve officer categories beside those established by Iowa Code.

(C) Other categories of Reserves will not, however, be authorized to carry weapons, nor make arrests.
(2013 Code, § 24-69) (Ord. 14130, passed 2-8-1982)

§ 33.999 PENALTY.

Any violation of chapter shall constitute a municipal infraction punishable as a civil penalty as provided in § 10.999(D) of this code of ordinances.
(2013 Code, § 17-245)

CHAPTER 34: CIVIL EMERGENCIES

Section

- 34.001 Purpose and declaration of policy
- 34.002 Mayor's power during emergency
- 34.003 Effective date and termination of emergency powers
- 34.004 City Administrator as Director of Disaster Services
- 34.005 Emergency operations plan
- 34.006 Operational organization
- 34.007 Emergency procurements

- 34.999 Penalty

§ 34.001 PURPOSE AND DECLARATION OF POLICY.

This chapter is enacted to set out and clarify the authority of the city and its officers and employees with regard to emergency and disaster situations. It is intended to grant as broad a power as permitted by statutory and constitutional authority. This chapter does not preclude joint or cooperative planning and response efforts with other city, county, state, regional, national and international authorities and bodies. (2013 Code, § 9-1) (Ord. 14622, passed 3-22-1999)

§ 34.002 MAYOR'S POWER DURING EMERGENCY.

Notwithstanding any provisions of this code to the contrary, when the Mayor determines, in the Mayor's sole discretion, that a state of public emergency exists within the city, the Mayor, pursuant to I.C.A. § 372.14, may by proclamation declare a state of emergency, govern the city by proclamation, and exercise through the assistance of the City Administrator and in consultation with the City Attorney all emergency powers, including, but not limited to, all of the following:

(A) The power to direct emergency response activities by city departments, including, but not limited to, the Police and Fire Departments, and by such emergency services personnel as the Mayor may designate or appoint;

(B) The power to execute contracts for the emergency construction or repair of public improvements, when the delay of advertising and public letting might cause serious loss or injury to the city, upon following the procedures of § 34.007 of this chapter;

(C) The power to purchase or lease goods and services the Mayor deems necessary to the city's emergency response or for the repair of city facilities, or both, upon following the procedures of § 34.007 of this chapter;

(D) The power to lease real property, structures or both, that the Mayor deems necessary for the continued operation of city government;

(E) The power to promulgate rules and orders to implement and clarify the Mayoral proclamation exercising emergency power; and

(F) The power to delegate any or all of these duties to the City Administrator, who may in turn delegate any or all of the duties.

(2013 Code, § 9-2) (Ord. 14622, passed 3-22-1999)

§ 34.003 EFFECTIVE DATE AND TERMINATION OF EMERGENCY POWERS.

Proclamations, rules and orders issued pursuant to § 34.002 of this chapter shall be effective upon issuance and shall remain in effect until withdrawn by the Mayor or issuing authority. However, these proclamations, rules and orders shall be withdrawn by the Mayor or issuing authority, and those acting pursuant to § 34.002 of this chapter shall cease to exercise emergency powers, at such times as the conditions giving rise to the emergency cease and emergency conditions resulting from the initial condition cease.

(2013 Code, § 9-4) (Ord. 14622, passed 3-22-1999)

§ 34.004 CITY ADMINISTRATOR AS DIRECTOR OF DISASTER SERVICES.

(A) (1) The City Administrator shall be responsible for the performance and supervision of performance of all duties in connection with coordinating and carrying out the city's part in furnishing services in the event of major natural or human-made disasters, including, but not limited to, floods, fire, drought, earthquakes, tornadoes, windstorms, epidemics, hazardous substance or nuclear power plant accidents or incidents, insurrections, riots, looting and persistent violent civil disobedience, which threaten the public peace, health and safety, or which damage and destroy public or private property of the city. Depending on the nature and scope of the disaster and nature and scope of agreements with other public entities, the City Administrator may coordinate or delegate, or both, the responsibility for the performance and supervision or performance for such duties to other such entities.

(2) The City Administrator shall assist the Mayor in the exercise of emergency powers under § 34.002 of this chapter.

(3) The City Administrator, or the City Administrator's designee, shall act in coordination with the state, county and other governmental agencies as may be necessary to plan and implement a joint jurisdiction emergency planning and disaster services plan and mutual aid arrangements.

(4) The City Administrator shall consult with the City Attorney and the county's Emergency Management Director in the planning and exercise of emergency powers.

(2013 Code, § 9-5)

(B) The City Administrator, when acting as Director of Disaster Services, shall:

(1) Request the Mayor, when appropriate, to declare a state of emergency as provided in § 34.002 of this chapter;

- (2) Control and direct emergency training activities in coordination with the county's Emergency Management Director;
 - (3) Maintain a liaison with other municipal, county, state, regional and federal disaster services agencies, including, but not limited to, coordination through the county's Emergency Management Commission and the Iowa Homeland Security and Emergency Management Department;
 - (4) Marshal, after the declaration of a state of emergency, all necessary personnel, equipment and supplies from any department of the city to aid in carrying out the emergency operations plan;
 - (5) Prepare, under the direction of the Mayor and in consultation with the City Attorney, all necessary emergency proclamations, rules and orders, pursuant to § 34.002 of this chapter, and implement the emergency operations plan;
 - (6) Coordinate in consultation with the city attorney the drafting of proposed mutual aid agreements;
 - (7) Serve as an operations officer for any joint or mutual emergency operation administration; and
 - (8) Assume other emergency responsibilities as assigned by the Mayor or City Council.
- (2013 Code, § 9-7)
(Ord. 14622, passed 3-22-1999)

§ 34.005 EMERGENCY OPERATIONS PLAN.

The City Administrator, or the City Administrator's designee, shall recommend an emergency operations plan for the city and recommend for adoption by the City Council mutual aid plans and agreements which are deemed essential for the plan in cooperation with the county's Emergency Management Commission and the Iowa Homeland Security and Emergency Management Department. The City Administrator, or the City Administrator's designee, shall make continuing studies of the need for amendments and improvements in such plans.
(2013 Code, § 9-6) (Ord. 14622, passed 3-22-1999)

§ 34.006 OPERATIONAL ORGANIZATION.

The Operational Disaster Services Organization of the city shall consist of municipal officers and employees who may be designated by the City Administrator and all volunteer workers. Plans of the Organization shall substantially conform to recommendations of the federal government and the Iowa Homeland Security and Emergency Management Department. The Organization shall coordinate with the county's Emergency Management Commission when appropriate.
(2013 Code, § 9-8) (Ord. 14622, passed 3-22-1999)

§ 34.007 EMERGENCY PROCUREMENTS.

Notwithstanding any provision of this code to the contrary, the Mayor, upon declaration of a state of emergency by proclamation as provided in § 34.002 of this chapter, may authorize the City Administrator, or the City Administrator's designee, to procure, by purchase or lease, such goods and services as are deemed necessary for the city's emergency response effort. This emergency procurement of goods or services may be made in the open market without filing a requisition or estimate and without advertisement for immediate delivery or furnishing. A full written account of all emergency procurements made during this emergency, together with a requisition for the required materials, supplies, equipment or services, shall be submitted to or provided by the City Administrator within 30 days after their procurement, and shall be open to public inspection for a period of at least one year subsequent to the date of the emergency purchases. The City Administrator shall, within three months of the conclusion of the emergency, formally communicate these emergency expenditures in a full written account to the City Council.

(2013 Code, § 9-9) (Ord. 14622, passed 3-22-1999)

§ 34.999 PENALTY.

The violation of a proclamation of emergency, a subsequent proclamation exercising emergency powers, a rule or order, which proclamation, rule or order is issued pursuant to § 34.002 of this chapter, or the violation of any order or directive given by a peace officer or designated emergency services personnel pursuant to authority resulting from § 34.002 of this chapter is a misdemeanor and punishable as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 9-4) (Ord. 14622, passed 3-22-1999)

CHAPTER 35: COUNCIL MANUAL

Section

- 35.01 Authority
- 35.02 Interpretation of the rules of procedure
- 35.03 Rule enforcement
- 35.04 Suspension and amendment of these rules
- 35.05 City government structure
- 35.06 Mayor's duties
- 35.07 Role of city staff at Council meetings
- 35.08 Types of meetings, notice and procedures
- 35.09 Public hearings
- 35.10 Media coverage of Council meetings
- 35.11 Meeting conduct
- 35.12 Agenda preparation
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- 35.14 Voting and discussion on motions and resolutions

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35.15	Procedure for making a motion
35.16	The four basic motions
35.17	Debate
35.18	Majority and super-majority votes
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35.20	Limiting debate and discussion
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35.23	Creation of committees, boards and commissions
35.24	Fiscal matters
35.25	Public participation in meetings
35.26	Public records and Open Meetings Law

§ 35.01 AUTHORITY.

I.A.C. § 372.13(5) provides that the City Council shall determine its own rules of procedure. The following chapter shall be in effect upon adoption by the Council until such time as they are amended or new rules adopted.
(Res. 2017-287, passed 10-9-2017)

§ 35.02 INTERPRETATION OF THE RULES OF PROCEDURE.

The City Attorney shall act as parliamentarian and rule on any questions regarding the application or interpretation of this chapter. In the absence of the City Attorney, the City Administrator shall be considered the final authority on the rules of procedure for the conduct of City Council business. Any good faith, non-intentional error in the application of these rules shall not void any public action taken if, notwithstanding the good faith, non-intentional error, the action taken otherwise complied with the code of ordinances and the Iowa Code.
(Res. 2017-287, passed 10-9-2017)

§ 35.03 RULE ENFORCEMENT.

(A) The presiding officer, whether it be the Mayor, Mayor Pro Tem or Acting Mayor Pro Tem, shall enforce this chapter. Any Council member who believes the presiding officer is failing to enforce this chapter may call attention to it by making a point of order referencing the rule or procedure the Council member believes is applicable. The raising of a point of order has the effect of requiring the presiding officer to make a ruling on the question involved and, if appropriate, to enforce the applicable rule.

(B) Unless otherwise specified by law or this chapter, all business will be conducted by majority rule of those present and voting.

(C) Following any adverse ruling on a point of order, any Council member may move to appeal the decision of the presiding officer and, in so doing, state the appropriate action which the Council member believes should have been taken. If this motion receives the required second, the City Council may, by majority vote, adopt the alternative ruling stated in the motion.
(Res. 2017-287, passed 10-9-2017)

§ 35.04 SUSPENSION AND AMENDMENT OF THESE RULES.

A motion to suspend this chapter is debatable but requires a two-thirds vote to pass. This motion allows the City Council to suspend its own rules temporarily in order to accomplish a particular purpose.

(A) *Temporary suspension.* This chapter may be temporarily suspended by the unanimous consent of all the Council members present, or by a vote of two-thirds of all the Council members. The vote on any such suspension shall be taken by “yeses” and “nos” and entered upon the record.

(B) *Amendment of these rules.* This chapter may be amended or new rules adopted, by majority vote of all Council members and shall, at a minimum, be reviewed every two years.

(C) *Supplemental rules.* The current edition of *Robert's Rules of Order* is adopted to supplement this chapter, where not in conflict with this chapter. However, any good faith, non-intentional error in the application of *Robert's Rules of Order* shall not void any public action taken if, notwithstanding the good faith, non-intentional error, the action taken otherwise complied with the code of ordinances and the Iowa Code.
(Res. 2017-287, passed 10-9-2017)

§ 35.05 CITY GOVERNMENT STRUCTURE.

(A) *Mayor.* The Mayor is the chief executive officer of the city and carries out the responsibilities specified in the code of ordinances. When present, the Mayor is the presiding officer at meetings of the City Council. The Mayor has veto powers authorized by the Iowa Code. The Mayor appoints all board and commission members as provided for in this chapter. The roles of these committees are detailed in the Board and Commission Manual, which is consistent with I.A.C. § 372.14.

(B) *Mayor Pro Tem.* The Mayor Pro Tem is vice president of the City Council. When the Mayor is absent or unable to act, the Mayor Pro Tem shall perform the Mayor's duties. The Mayor Pro Tem retains all of the powers of a Council member while performing the duties of the Mayor.

(C) *City Council.*

(1) The City Council is the legislative body elected by the citizens of the city to make laws and policies for the community. The Council approves the budget and determines the tax rate, among other required duties set forth in the Iowa Code and code of ordinances. The Council is responsible for major issues, such as community growth, land use development, capital improvement plans, capital financing and

strategic planning. The Council appoints the City Administrator, who is tasked under the code of ordinances with the supervision of the city staff and with carrying out most day-to-day functions of the city government when the Council is not in session. The Council supervises and evaluates the City Administrator's performance.

(2) The role of a City Council member is similar to being a member of the board of directors of a large business. The City Council provides a focal point, or the conscience of the community. It is not the job of Council members to become directly involved in the daily operations of the city. The City Administrator and the department directors are responsible for overseeing the implementation of services. The Council sets the level of services and the policies by which the city operates.

(D) *City Administrator.* The City Council shall select a City Administrator, who serves as the Chief Administrative Officer, and shall evaluate his or her performance on a routine basis. The City Administrator shall work with, coordinate and supervise the department directors who have the knowledge, ability and expertise to manage their departments, including day-to-day operations, personnel supervision and assignment, expenditures within the limitations of the city budget, the administration of laws, rules and regulations applicable to their departments, and staffing. Except for the purposes of fact-finding, City Council members shall deal with the administrative agencies of the city through the City Administrator.
(Res. 2017-287, passed 10-9-2017)

§ 35.06 MAYOR'S DUTIES.

(A) *Chairperson.* The Mayor, when present, shall act as presiding officer of all meetings of the City Council. In the absence of the Mayor, the Mayor Pro Tem shall act as presiding officer. In the absence of both the Mayor and the Mayor Pro Tem, the longest-serving Council member, including all combined terms and years of service on the Council, shall act as presiding officer.

(B) *Substitution procedure for presiding officer.* In the case of the Mayor's absence or recusal due to conflict of interest, the Mayor will call on the Mayor Pro Tem, or the longest-serving Council member then present and available, to temporarily preside over the meeting. Said temporary arrangement shall not continue beyond adjournment, or cessation of discussion of the matter requiring recusal.

(C) *Council rules.* These rules, including any amendments to these rules which may be made from time to time, shall be effective when adopted by a majority vote of the entire Council.

(D) *Call to order.* The meetings of the Council shall be formally called to order by the presiding officer.

(E) *Right of floor.* Any Council member desiring to speak shall be first recognized by the Mayor, unless requesting to be recognized or seconding a motion. Council members shall confine their remarks to the subject under consideration.

(F) *Order and decorum.* The presiding officer shall preserve order and decorum, and shall decide all questions of order, subject to an appeal to the Council. The presiding officer shall ensure that debate and discussion of an agenda item focuses

on the item and the policy in question. The presiding officer shall abide by the following rules when controlling discussion:

(1) Debate on policy is healthy and necessary, but ad hominem criticisms of other Council members is not. The Mayor has the right to stop discussion which is personal in nature, abusive, unduly loud, inappropriate, repetitive or excessively time-consuming.

(2) One person shall have the floor at a time and the speaker shall be recognized by the presiding officer before proceeding to speak.
(Res. 2017-287, passed 10-9-2017)

§ 35.07 ROLE OF CITY STAFF AT COUNCIL MEETINGS.

(A) *City Administrator.* The City Administrator or designee shall attend all meetings of the Council unless excused by the Mayor. The City Administrator shall make recommendations to the Council when appropriate, either in writing prior to the meeting, or orally as necessary during the meeting.

(B) *City Attorney.* The City Attorney or designee shall attend all meetings of the Council, unless excused by the Mayor or the City Administrator. The City Attorney shall act as the Council's parliamentarian when present.

(C) *City Clerk.* The City Clerk or designee shall attend all meetings of the Council, unless excused by the Mayor or the City Administrator, and shall keep the official minutes and perform such other duties at the meeting as may be requested by the Council.

(D) *City employees.* Department heads or other designated employees of the city shall attend the Council meetings, unless excused by the Mayor or the City Administrator.

(Res. 2017-287, passed 10-9-2017)

§ 35.08 TYPES OF MEETINGS, NOTICE AND PROCEDURES.

(A) Notices of, and agendas for, all meetings of the City Council, appointed boards, committees or commissions shall be given in compliance with the requirements of I.A.C. § 21.4. Meeting notices shall be posted by the City Clerk, or designee, at least 24 hours prior to the meeting. Likewise, any established boards, commissions or committees established by the City Council shall follow the same procedures.

(B) The City Council meeting agenda and pertinent packet information shall be posted on the city's website, www.marshalltown-ia.gov. The Mayor and Council members should contact the City Clerk with any routine questions concerning the agenda prior to the meeting. Questions regarding policy issues on the agenda and clarification of action items should be directed to the City Administrator ahead of the meeting, whenever possible.

(C) All official meetings of the Council, appointed boards, committees or commissions shall be open to the public, except those legally designated as closed sessions. Regular Council meetings shall be held in a building or room that is

accessible to persons with disabilities, which shall normally be the Council chambers at the city hall, located on the second floor of the building at 10 West State Street. For Council meetings held in part or in whole at other locations for any purpose, that meeting space shall be accessible to persons with disabilities to the maximum extent possible. Special arrangements for the hearing impaired, or for interpreters, will be considered upon request to the City Clerk's office.

(1) *Regular meeting.* The regular Council meetings will be held the second and fourth Mondays of every month, except when the regular meeting date is a holiday, in which event the meeting will be held at noon on the next day. Meetings will commence at 5:30 p.m., unless the Council directs otherwise.

(2) *Work sessions.*

(a) The Council may meet informally as needed in work sessions which are open to the public. Starting times will be dependent on the number of items scheduled for discussion. The purposes for work sessions include, but are not limited to, budget sessions, joint meetings, reviewing upcoming programs, receiving progress reports on current programs, receiving information from the City Administrator or discussing other matters of concern. No formal action on any item may be taken at a work session, but matters may, by motion, be placed on the agenda for a later City Council meeting.

(b) Items may be placed on the work session agenda by the City Administrator, Mayor or a Council member. The City Attorney or other city staff may place items on the agenda if approved by the City Administrator. Agenda items must be submitted at least five days prior to the scheduled work session. No public comment shall be permitted during a work session unless public comment is specifically called for on the agenda, or unless solicited by the presiding officer.

(3) *Special meetings.* Special meetings of the City Council may be held if called by the Mayor, with the required public notice under I.A.C. Ch. 21. In such cases, the Mayor shall provide written notice to each Council member by email or other appropriate means. The cost of calling a special Council meeting for approval of a permit, license or similar instrument is \$500 and shall be the responsibility of the petitioner.

(4) *Open session.* Except as provided in the Iowa Code, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

(5) *Closed and exempt sessions.*

(a) I.A.C. § 20.17 permits public bodies to hold exempt sessions (such as, not subject to the Open Meetings Law) to discuss collective bargaining with their bargaining representatives. I.A.C. §§ 21.5 and 21.9 permit closed sessions for certain limited, and narrowly defined, reasons. A vote to go into a closed session requires an affirmative vote of either two-thirds of the Council members or all of the Council members present at the meeting. No ordinance, resolution, motion or other formal action may be taken in closed session.

(b) In the case of any exempt or closed session, the agenda shall be drafted with the assistance of legal counsel to state the specific statutory basis under which the closed session will be held. The City Attorney or other legal counsel shall provide, in writing, the legal basis for the closed session and provide the same to

the Mayor and Council prior to the meeting or, in the alternative, the City Attorney or outside legal counsel shall attend the meeting and state publicly the basis for the closed session. Said written or oral opinion shall specify the particular Iowa Code section which allows the exempt or closed session and a short statement of why the subject matter to be discussed in closed session makes the section applicable. The Council shall not enter closed session until this opinion is provided.

(Res. 2017-287, passed 10-9-2017)

§ 35.09 PUBLIC HEARINGS.

(A) *Informal public hearings.* An informal public hearing is called in order to give the public an opportunity to comment on a matter of public interest before the Council. Informal hearings are not required by state law or city ordinance. The board, committee or commission concerned may set rules for notifying the public of an informal hearing, establish a time frame and conduct the hearing in any fair manner it chooses.

(B) *Formal public hearings.* A formal public hearing is one required by state laws or city ordinances and is designed to solicit comment from the general public.

(C) *Hearing procedures.*

(1) Hearings shall be fair and impartial. If a Council member has a personal interest in the outcome of a hearing, such that there is a legally recognized conflict of interest, he or she should disqualify himself or herself from participation.

(2) Persons and groups who may be affected by the matter being discussed in the hearing shall be provided at least the minimum statutory notice of the time and place of the hearing. Such persons and groups attending the hearing shall be given a reasonable opportunity to be heard. Persons or groups requesting to address the Council may be represented by legal counsel and may present oral and documentary evidence.

(3) The presiding officer should open the hearing and explain the hearing procedures. The presiding officer should inquire whether any comment on the public matter at issue has been received in the Clerk's office, and the Clerk should then relate any such comments for the record.

(4) Following the report of the Clerk, the public should be invited to address the Council. If there are numerous persons representing the same views and opinions, the presiding officer may ask that a spokesperson be selected to speak on behalf of the group. If this arrangement cannot be made, the presiding officer may restrict each speaker to a limited time (generally three minutes) so that all may be heard. Irrelevant comments or speakers who run over the time allotted may be ruled out of order by the presiding officer.

(5) Following comments from the public, staff persons who have information to present should be invited to present their respective reports.

(6) When all interested persons (except as reasonably limited by the presiding officer, as stated above) have had the opportunity to speak, the hearing is closed, ending audience participation. Council members may then discuss and take action on the proposal following the hearing if notice of such action is stated on the meeting agenda.

(Res. 2017-287, passed 10-9-2017)

§ 35.10 MEDIA COVERAGE OF COUNCIL MEETINGS.

(A) *Open meetings.* All official meetings of the City Council shall be open to the public and the media. All meetings may be recorded by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

(B) *Agendas.* Agendas may be obtained by members of the media by contacting the City Clerk (754-5701) or by downloading the agenda from the city's website. Further, printed agendas are available at each City Council meeting.
(Res. 2017-287, passed 10-9-2017)

§ 35.11 MEETING CONDUCT.

(A) *Disorderly conduct.*

(1) No person shall disrupt the orderly conduct of a Council meeting. Prohibited disruptive behavior includes, but is not limited to, shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council table without consent. Any message to or contact with any Council member while the Council is in session must be made through the City Clerk.

(a) *Recognition by Mayor.* Council members shall not address the meeting until recognized by the presiding officer.

(b) *Two or more speakers.* When two or more Council members request to be recognized at once, the presiding officer shall recognize and name the Council member who is to speak first.

(c) *Speaking more than once on one question.* No Council member shall be recognized to speak twice on the same matter until every Council member desiring to comment on the matter has spoken.

(d) *Inappropriate language and behavior.* The Mayor, Council members, City Administrator and staff shall at all times conduct themselves civilly. No person shall be permitted to shout, curse or use personally offensive language directed at other individuals.

(e) *Person called to order.* Any person called to order by the presiding officer shall immediately desist in the objectionable behavior.

(f) *Private discourse prohibited.* While any person is addressing the meeting, who has been duly recognized by the presiding officer, no person shall hold any disruptive or distracting private conversation.

(g) *Removal.* Any of the following shall be sufficient cause for law enforcement personnel, by order of the presiding officer, to remove any person from the Council chambers or meeting hall for the duration of the meeting:

1. Unreasonably loud or disruptive language, noise or conduct which obstructs the work of conducting of the business of the Council;
2. Willful injury of furnishings or of the interior of the Council chambers or meeting hall;
3. Refusal to obey the rules of conduct, including the limitations on occupancy and seating capacity; or
4. Refusal to obey an order of the presiding officer or an order approved by a majority of the Council present.

(2) Except where a disruptive person presents a physical danger to others (in which case law enforcement personnel will immediately apprehend and remove the person), the presiding officer shall give a warning to a disruptive person before ordering the person's removal. If a meeting is disrupted by more than one member of the audience and where it appears a general breakdown of order has occurred or will occur, the presiding officer or a majority of the Council present may order that the Council chambers or other meeting hall be cleared.

(B) *Enforcement of decorum.* The presiding officer is the Sergeant-at-Arms of the Council meetings. That person maintains order and decorum at the Council meetings. Physical removal, when necessary, will be undertaken by law enforcement personnel.

(C) *Action by verbal motion.* Verbal motions of the Council shall be stated clearly. In the case of an ambiguous or confusing motion capable of several interpretations, the presiding officer shall, as soon as practicable following the initial statement of the motion, clarify the intent of the motion so as to ensure all Council members understand its meaning and intent. In such cases, Council members should be asked to amend their motions by friendly amendment.

(Res. 2017-287, passed 10-9-2017)

§ 35.12 AGENDA PREPARATION.

(A) *Agenda deadline.* Except in cases of pressing need or emergency, no business may be submitted for placement on the regular Council agenda after 12:00 p.m. of the fifth day (Wednesday) prior to the meeting day. Items may be placed on the agenda by the City Administrator, Mayor or a Council member. The City Attorney or other city staff may place items on the agenda if approved by the City Administrator. When a holiday falls on a Friday, the City Clerk may revise the agenda cutoff time and shall, with the concurrence of the City Administrator, notify all staff, the Mayor and Council members of the same.

(B) *Agenda and agenda packet preparation.*

(1) The Mayor, City Administrator and City Clerk are responsible for preparation of the agenda and packet. Council members should promptly review their packets and contact the City Administrator if there are any questions regarding the information. The Mayor and City Administrator, after considering any requests for

agenda items, shall approve the tentative agenda. Any request for an agenda item from the general public shall not be placed on the agenda unless and until timely requested by the Mayor or City Administrator. Staff may also place on the agenda items brought forward by the public, if approved by the City Administrator.

(2) Council members should, whenever possible, avoid using Council meeting time as a fact-finding exercise. Council members are instead encouraged to consult with the City Administrator ahead of the meeting to clarify any packet materials which are unclear. Meeting time should be used, as much as possible, for bona fide debate of public matters, rather than fact gathering which could have been accomplished with due diligence before the meeting.

(3) Agendas for public meetings shall be posted at city hall and shall be made available to the Mayor and City Council, city department directors and to the local media. At 5:00 p.m. on the Friday prior to Council meetings, the agenda packets are taken to the Police Department where officials may pick them up throughout the weekend. The agenda packets are also posted to the city's website for viewing by the general public.

(C) *Withdrawn items.* Agenda items may be withdrawn by either the Mayor or the City Administrator prior to agenda distribution. Further, under circumstances where unforeseen problems are discovered with an agenda item after distribution of the agenda, the agenda may be modified as necessary by the Mayor.
(Res. 2017-287, passed 10-9-2017)

§ 35.13 ORDER OF BUSINESS.

(A) *Generally.* The order of business shall be as contained in the agenda. The order of business may also be changed by majority vote of Council members present, for reasons of efficiency. Reasons of efficiency include, but may not be limited to, the convenience of persons attending the meeting, the lateness of the hour and similar concerns. Meetings shall normally be conducted in the following order:

- (1) Call meeting to order;
- (2) Pledge of allegiance;
- (3) Roll call;
- (4) Comments by the Mayor, Council members, City Administrator and presentations. Informational, explanatory or educational comments by the Mayor, Council members and City Administrator which do not require any action. These comments may also include announcements of events, welcoming special guests or recognition of an achievement;

- (5) Consent agenda. The consent agenda shall consist of non-controversial, routine items such as, but not limited to, refunds, routine appointments not requiring Council approval, department reports, applications, simple service contracts already vetted by city staff and not requiring Council attention, and communications not requiring action. The items comprising the consent agenda will not be considered individually, but will be adopted on one motion. Council members or the Mayor may remove any item on the consent agenda for individual discussion, and no second shall be required. No vote on such a request shall be required;

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(6) Reports. The Council may request reports from cooperating agencies or private groups who are working with the Council on official projects or other community initiatives;

(7) Motions. Motions are proposals to move a matter forward or to take some action in circumstances where no written resolution has been prepared. Council members should make a motion when there is new or non-routine business requiring Council discussion prior to a vote, including, but not limited to, new liquor licenses and cigarette permits. Example: "I move the liquor license for XYZ Restaurant be approved." Any motions concerning any procedure matter, such as the order of business or the general conduct of the meeting, may be made prior to the consideration of other business;

(8) Resolutions. Resolutions are written directives of the City Council directing certain actions, such as the approval of contracts. Resolutions typically direct the Mayor to sign the resolution and frequently direct the City Clerk to take whatever actions are necessary to carry out the resolution, such as to "place the contract on file in the usual manner." Resolutions are necessary for more formal actions where a definite record of Council action is important. Resolutions presented and seconded shall first be discussed by the City Council and Mayor. After discussion by the Council and Mayor, a resolution may, at the discretion of the presiding officer, be addressed by members of the general public upon the same conditions provided under public comments. A resolution pertaining directly to other items of business should be placed first in order of resolutions being considered. Resolutions requiring a public hearing shall be considered immediately following the public hearing. Resolutions requiring a public hearing will be considered last in order of resolutions;

(8) Ordinances. Ordinances are the laws of the city. Ordinances must be read, considered and passed three separate times at three separate meetings of the City Council in order to become law. However, if the agenda provides the required public notice, a motion may be made to allow all three readings to occur at one meeting. If the motion is approved by three-fourths of all Council members (such as, not just those Council members present), then the requirement of making the readings at three separate meetings may be waived, and all three readings may occur at the present meeting. Such a motion to waive the three meetings requirement may occasionally be appropriate when an ordinance is not controversial and where time is of the essence. After discussion by the Council, members of the general public may, at the discretion of the presiding officer, address an ordinance, upon the same conditions as provided under public comments. An ordinance which requires a public hearing prior to adoption will be placed last in the order of ordinances being considered. In the case of any ordinance to amend or repeal an ordinance or section of an ordinance, the proposed amendment shall contain the entire text of the ordinance or section to be amended or repealed. Ordinances amending or repealing existing ordinances shall be drafted to repeal the former ordinance or section in its entirety, and set forth the entire text of the proposed ordinance or section, as amended;

(9) Discussion. Items placed on the agenda solely for discussion purposes will not be acted upon. Such discussion items determined to require action may be placed on a subsequent agenda by motion or, if no motion is made, by

placement of the item on a subsequent meeting agenda through the usual process described in the "Agenda Preparation" section of these rules;

(10) **Public comment.** Members of the general public may, during the allotted timeframe on the meeting agenda, make comments on any item which was not on the agenda. The proposed speaker shall, after being recognized by the presiding officer, approach the microphone, and state his or her name and address. Comments shall be limited to three minutes, unless a longer comment is authorized by the presiding officer. The speaker shall direct comments to the presiding officer and to the Council as a whole. The presiding officer and Council members shall not engage in discussion or debate on items raised by members of the public unless the subject matter concerns an item on the posted agenda. No action may be taken on items raised in public comments; and

(11) **Adjournment.**

(B) ***Individual electronic participation.*** An absent Council member may participate electronically in any City Council meeting by speaker phone or other device, provided the comments of the Council member are plainly audible to the public.

(C) ***Quorum.*** A quorum is necessary for the conduct of business. A majority of the Council members shall constitute a quorum. If a quorum is not present, those in attendance may elect to discuss items, but may not take official action, except to adjourn to a later date.

(D) ***Recording of votes.*** Affirmative and negative votes shall be recorded on all ordinances and resolutions and entered into the official minutes of the City Council. The outcome of a vote on a motion shall be announced by the Mayor and recorded by the Clerk.

(E) ***Majority vote required.*** Unless otherwise provided by state code, an affirmative vote of at least four Council members shall be necessary to pass an ordinance or resolution. When any vote is called, each Council member shall respond: "yes," "no" or "abstain." An "abstain" vote of a Council member is a "no" vote, unless the Council member states he or she has a conflict of interest and states the nature of the conflict. In the case of a conflict of interest, the number of votes to approve any action is recalculated to exclude the abstaining Council member. For example, if two Council members abstain due to a conflict of interest, an item could pass on a three to two vote (provided the vote does not require a majority of the entire Council).

(F) ***Ordinance and resolution passage procedure.*** When passed by the City Council, an ordinance or resolution shall be signed by the legally required person (normally the Mayor) and shall be attested to by the City Clerk. It shall be immediately filed and thereafter preserved in the office of the City Clerk.

(G) ***Publications.*** All minutes, ordinances and notices will be published as required by state law.

(H) ***Consideration of emergency matters.*** If, under I.A.C. § 21.4(2), and after conferring with the City Attorney, the City Council determines by majority vote that an emergency exists, agenda items may be added without 24 hours' notice to the public. In such cases, the reasons for said emergency shall be noted in the minutes and, particularly, the reasons why the Council determined the items could not reasonably be deferred to a later meeting. Such action should rarely occur, and only when the Council believes irreparable harm will occur if action is not taken immediately.

(Res. 2017-287, passed 10-9-2017)

§ 35.14 VOTING AND DISCUSSION ON MOTIONS AND RESOLUTIONS.

(A) *Generally.* No motion or resolution shall be debated unless seconded. When a matter is seconded, the Mayor shall restate the motion or resolution and open the floor for debate.

(1) *Three-minute rule.* Council members speaking on a matter shall confine their remarks strictly to the matter under consideration and shall limit their remarks to three minutes in duration.

(2) *Vote required when present.* Every Council member present when a question is stated from the presiding officer shall vote thereon, unless the Council member has declared a conflict of interest in the outcome of the question under consideration.

(3) *Motion or resolution withdrawn.* After a motion or resolution is seconded and stated by the Mayor, it may be withdrawn at any time before decision, but if any amendment has been proposed and adopted, it shall not be withdrawn without the consent of the mover of such amendment.

(4) *Several distinct propositions.* If the question in debate contains several distinct propositions, any Council member may have the same divided, and the item(s) considered separately.

(B) *Votes recorded.* In all cases where a resolution or a motion is entered in the minutes of the City Council, the name of the Council member moving the same shall be stated in the minutes.

(1) *“Yeses” and “nos” recorded.* The “yeses” and “nos” upon any question shall be entered in the minutes.

(2) *Blanks.* When a blank is to be filled, and different sums or times are proposed, the question shall be taken first on the largest sum, or the longest time.
(Res. 2017-287, passed 10-9-2017)

§ 35.15 PROCEDURE FOR MAKING A MOTION.

(A) When a Council member wishes to propose an idea for discussion and possible action, the Council member must make a motion. In order to make a motion, these steps must be taken:

(1) The Council member asks to be recognized by the presiding officer;
(2) After being recognized, the Council member makes the motion (“I move...”);

(3) Another Council member seconds the motion;
(4) The presiding officer states the motion and asks for discussion;
(5) When there has been sufficient discussion, the presiding officer will close debate (“Are you ready for the question?” or “Is there any further discussion?”);

(6) If no one requests to make additional comments, the presiding officer puts the question to vote; and

(7) After the vote, the presiding officer announces the outcome of the motion ("The motion is carried" or "Motion fails").

(B) Until the presiding officer states the motion, the Council member making the motion may rephrase (amend) or withdraw it. After an amendment, the motion as amended must still be seconded and then voted upon. It is particularly important when a motion is amended that the presiding officer restate the motion, as amended.

(C) In making a motion, Council members must avoid combining multiple proposals in the same motion. If a Council member prefers to see proposals divided and voted upon separately, the Council member should ask the presiding officer to divide the motion into separate motions for consideration. The presiding officer may then proceed to treat each distinct proposal as a distinct motion, each requiring its own second, and to be acted upon separately. The presiding officer should solicit motions when the situation demands by either inviting a motion or suggesting a motion to the Council members.

(Res. 2017-287, passed 10-9-2017)

§ 35.16 THE FOUR BASIC MOTIONS.

(A) *The basic motion.* Puts forward a decision for consideration. Example: "I move that we create a five-member committee to plan the annual fundraiser."

(B) *The motion to amend.* Changes a basic motion under consideration. Example: "I move we amend the motion to have a ten-member committee." A motion to amend requires a second and must be decided before the Council returns to consideration of the original motion.

(C) *The motion to postpone to a date certain.* Proposes delay in further discussion of the matter under consideration until a specific, stated time at which the item will be debated further. Example: "I move we postpone further discussion of this item until our first regular meeting in October."

(D) *The motion to lay on the table.* Postpones discussion of an item indefinitely, unless taken off the table. Example: "I move we table this item." Tabling an item leaves it on the table and no specific time is stated for further discussion. It stays "on the table," until a later agenda item provides notice it will be brought from the table for further discussion.

(Res. 2017-287, passed 10-9-2017)

§ 35.17 DEBATE.

(A) Most motions, except for procedural motions, such as calling the previous question, adjournment, and the like, are debatable. Debate may continue as long as Council members wish to discuss an item, subject to any motion for previous question, which ends debate. Absent a successful motion for previous question, debate will end if the presiding officer solicits further comments and none are forthcoming.

(B) Some motions are not debatable. The presiding officer should immediately call for a vote of the Council, without debate on the following:

(1) *Motion to adjourn.* This motion, if passed, requires the Council to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

(2) *Motion to end debate or the “previous question.”* The most common form of this motion is to say: “I move the previous question,” or “I move the question,” or “I call for the question.” When a Council member makes such a motion, the Council member is really saying, “I’ve had enough debate. Let’s get on with the vote.” The motion requires a second. If the motion carries by two-thirds majority of those Council members present, all further debate is concluded, and the question put in this order: first upon the amendments pending and then upon the main proposition before the Council.

(3) *Motion to limit debate.* An alternative to the previous question is a motion to limit debate, which includes, by its stated terms, a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” The motion to limit debate requires a two-thirds vote of the Council.

(4) *Motion objecting to consideration.* A similar motion is a motion objecting to consideration of an item. This motion is not debatable and, if passed, precludes the Council from even considering an item on the agenda. It also requires a two-thirds vote.

(5) *Motion to lay on the table.* A motion to lay a question upon the table is not debatable.

(6) *Motion to postpone to a date certain.* A motion to postpone to a date certain is not debatable (except for discussion of the specific date).

(7) *Motion to refer to committee.* This motion directs that the item under consideration be sent to a committee for further analysis and recommendations.

(8) *Motion to fix the time to adjourn.* This motion, if passed, requires the Council to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

(9) *Motion to recess.* This motion, if passed, requires the Council to immediately take a recess. Normally, the presiding officer determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

(Res. 2017-287, passed 10-9-2017)

§ 35.18 MAJORITY AND SUPER-MAJORITY VOTES.

In addition to the specific rules for passage of motions, resolutions and ordinances as set by state law, there are procedural exceptions to the rule of passage by a simple majority. The exceptions occur when the City Council is taking an action that effectively cuts off the ability of a minority opinion to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

(A) *Motions to limit debate.* Whether a Council member says, “I move the previous question,” “I move the question,” “I call for the question,” or “I move to limit

debate,” these motions, if successful, cut off the ability of the minority to discuss an item.

(B) *Motion to object to the consideration of a question.* Normally, such a motion is unnecessary, because the objectionable item is usually tabled or defeated. However, when Council members do not wish there to be any consideration of an item, such a motion is in order. It is not debatable.

(Res. 2017-287, passed 10-9-2017)

§ 35.19 MOTION TO RECONSIDER.

(A) After a vote is taken, the matter is deemed concluded and is subject to reconsideration only upon a timely motion. A motion to reconsider shall only be made by a Council member who originally voted in favor of the measure (such as, a Council member on the prevailing side). A motion to reconsider requires a two-thirds majority vote to pass, but there are two limitations: First, a motion to reconsider may be made at the meeting where the item was first voted upon. The motion maybe made at any time before adjournment. A motion to reconsider may also be made in the case of a failed measure, if made at a subsequent meeting within ten days of the original measure’s failure by a Council member who voted against the measure.

(B) If the motion to reconsider passes, then the original matter is back before the City Council, and a new original motion is in order.

(C) The matter may be discussed and debated as if it were on the floor for the first time.

(D) Once a matter has been duly reconsidered, no further motion to reconsider the issue can or shall be made without the unanimous consent of the City Council.

(E) No question shall be reconsidered more than once, nor shall a vote to reconsider be reconsidered. This rule does not prevent substantively different iterations of the measure from being brought forth at later meetings of the Council. Further, once a new City Council is seated following the next regular election, any matter may be revived.

(Res. 2017-287, passed 10-9-2017)

§ 35.20 LIMITING DEBATE AND DISCUSSION.

(A) Debate and discussion should be focused, but free and open. At the same time, the Mayor may limit the time allotted to speakers, including Council members, in the interest of efficiently and effectively using time.

(B) Generally, a Council member will not be interrupted by other Council members, but may be under the following circumstances:

(1) *Privilege.* The proper interruption would be: “Point of privilege.” The Mayor would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the comfort of the meeting participants. For

example, the room may be too hot or too cold, or a blowing fan might interfere with a person's ability to hear.

(2) *Order.* The proper interruption would be: "Point of order." The Mayor would ask the interrupter to "state your point." Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting; for example, if the Mayor moved to a vote on a motion that permits debate without allowing discussion or debate.

(3) *Appeal.* If the Mayor makes a ruling with which a Council member disagrees, that Council member may appeal the ruling of the Mayor to the parliamentarian.

(4) *Call for orders of the day.* This is another way of saying, "Let's return to the agenda." If a Council member believes the Council has drifted from the agenda, such a call may be made. It does not require a vote, and when the Mayor discovers that the agenda has not been followed, the Mayor simply reminds the Council to return to the agenda item properly before them.

(5) *Withdraw a motion.* During debate and discussion of a motion, the maker of the motion on the floor may, at any time, interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the Mayor may ask the person who seconded the motion if he or she wishes to make the motion, and any other Council member may make the motion, if properly recognized. (Res. 2017-287, passed 10-9-2017)

§ 35.21 ADJOURNMENT.

When the City Council has finished its business, the Mayor may declare the meeting adjourned.

(Res. 2017-287, passed 10-9-2017)

§ 35.22 MINUTES.

(A) Minutes of all proceedings of the City Council shall be kept by the City Clerk, or designee, and shall be entered in the official record of the Council. Minutes of the proceedings shall be open to public inspection, except those of closed sessions. Minutes shall be published in a newspaper of general circulation within 15 days of the Council meeting, as required by the Iowa Code. City Council policy does not require that minutes be recorded verbatim. Minutes record the essence of decisions made and of actions taken. Minutes shall show the date, time and place of the meeting, Council members present, action taken, the results of each vote taken, and information sufficient to indicate the vote of each Council member present.

(B) Minutes of meetings and closed session recordings are retained as required by state law. Minutes of all meetings must be prepared by the City Clerk, or the City Clerk's designee, secretary of the board, committee or commission, or that body's staff liaison. A copy of all such minutes must be filed with the City Clerk's office. Upon approval by the board, committee or commission, written minutes constitute the official

record of its activities. Personal notes or recordings made by the City Clerk for personal reference and convenience in preparing minutes shall not be considered part of the record and need not be preserved.

(C) Additions and corrections to the minutes may be made only in public meetings, with the approval of the Council, and not by private request of individual Council members.

(D) Minutes of boards, committees and commissions are available on the city's website for viewing by the City Council and general public.
(Res. 2017-287, passed 10-9-2017)

§ 35.23 CREATION OF COMMITTEES, BOARDS AND COMMISSIONS.

Please refer to the Board and Commission Manual for more information. Any resident of the city may be considered a candidate for appointment to boards, committees and commissions. Applicants complete an application form stating their interests and background information. Appointments on boards, committees or commissions are announced by the Mayor at regular City Council meetings. Applications for these appointive positions are available at the City Clerk's office and on the city's website. The completed applications are reviewed by the Mayor, who recommends appointees to the Council. Final appointment is made by an affirmative vote of a majority of the City Council.

(A) *Purpose of committees, boards and commissions.*

(1) As permitted by the Iowa Code and the code of ordinances, the Mayor and/or the City Council may create committees, boards and commissions to assist with such public duties as the Council may specify. All Council members, the Mayor, City Administrator and City Attorney are welcome to attend any meeting of a committee, board or commission. Notice of committee, board and commission meetings will be given to the entire Council and the Mayor and posted for the public.

(2) Any special or ad-hoc committee will be formally approved by the City Council. When a board, committee or commission is established by the City Council, the specific duties of the group are set forth in the ordinance or resolution which created it. An advisory body is limited to consideration of those matters specifically assigned to it. If a commission, board or committee determines its activities should be expanded beyond its existing authority, the commission, board or committee should formally request specific authorization from the City Council to consider the additional matters and to formulate recommendations accordingly.

(3) Special committees shall report their findings and recommendations in writing. All recommendations shall be approved by a majority of the committee before presentation to the City Council as a whole, though a minority report and recommendation may likewise be made, and the Council shall consider both reports. Committees will make reports to the City Council as requested by the Council. All committee recommendations, decisions or proposed actions shall be subject to the final approval and adoption of the City Council. Upon submission of a final report to the City Council, the special or ad-hoc committee shall dissolve, unless tasked with additional work by the Council.

(4) Special committees of the City Council shall be empowered to require the attendance of witnesses, and for that purpose, the chairperson of such committee is authorized to issue subpoenas. Subpoenas shall be provided to the Chief of Police, who shall immediately cause service of the same on the summoned individuals, in the usual manner required by law.

(B) *Membership and selections.* Membership and selection of members shall be as provided by the Mayor and the City Council if not specified by the Code of Iowa or the code of ordinances. No committee so appointed shall have powers other than advisory to the City Council or the City Administrator, except as otherwise specified by the code of ordinances or the Code of Iowa. Members of boards, committees and commissions should be independent of the City Council, or other boards, committees and commissions, and of other governmental units, so they may exercise unbiased judgment in addressing the tasks and issues before them.

(C) *Gender balance.* In 2009, the Iowa Legislature passed a law requiring appointive boards and commissions to be gender balanced by 2012, or as close as possible for boards and commissions with an uneven number of members. Only after making a good faith effort for 90 days to find sufficient volunteers to create gender balance may the city proceed to fill positions in a manner which does not evenly balance boards and commissions.

(D) *Ineligible appointments.* The following persons shall not be eligible for appointments to standing boards, committees or commissions of the city:

(1) Spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, stepmother, stepfather, stepchild, aunt or uncle of a current City Council member; or

(2) A current member of a comparable county board, committee or commission, unless dual or joint memberships are provided for in the ordinance, resolution or statute, which creates the board, committee or commission to which appointment is being made.

(E) *Council and commission effectiveness.* The City Council and all appointed advisory boards, committees and commissions are policy-oriented groups. The advisory groups operate as satellite units, which focus on particular concerns, issues or problems in the community. When an advisory board, committee or commission has an item on a City Council meeting agenda, a representative from that body shall be present at the City Council meeting. Similarly, when a member of any board, committee or commission addresses the City Council at a public meeting, he or she should always clearly state whether he or she is speaking on behalf of the advisory group or as an individual.

(F) *Interactions with City Council; procedural guidelines.* The City Council considers input and recommendations from a variety of sources in its decision-making process. Therefore, the Council may not always follow the specific recommendations of any one particular board, committee or commission in adopting policy or procedure. Once the Council has established its position, members of advisory groups may continue to have reservations or individual objections. As representatives of the larger group, however, members should remember they are expected to act in a manner consistent with the established policy and/or program as approved by the City Council.

(G) *Council policy on legislative issues.*

(1) The City Council is ultimately responsible for establishing city policy and determines the public position of the city on legislative matters. Therefore, commissions, boards or committees shall not issue public statements on legislation pending before the City Council, unless said statements are reviewed and approved by the Council.

(2) This policy is not intended to prevent advisory groups from carrying out their normal functions publicly and openly; rather, its purpose is to establish that boards, committees and commissions do not issue policy statements or take public positions which fall within the purview of the City Council.

(H) *Submitting a formal request for consideration; procedure.* In the event a board, committee or commission wishes to request the City Council endorse or approve a particular position or idea formulated by the board, committee or commission, said request should first be reflected in the minutes of the meeting of the board, committee or commission at which the action was approved. Following such action, the board, committee or commission's secretary or staff liaison should submit a written request to the City Council, with a copy to the City Administrator's office for inclusion on the agenda of an upcoming Council committee or City Council meeting. In the interim, copies of the request will be made available to all Council members. The communication should include the degree of urgency and a specific statement of the action requested.

(I) *Relations with the public.* Council members and members of appointed boards, committees or commissions are encouraged to maintain awareness of public opinion. Citizen input should be welcomed and heard at meetings, and members should be considerate of all interests, attitudes and differences of opinion. Members should be vigilant about maintaining not only the appearance, but also the principle of impartiality.

(J) *Conflicts of interest.*

(1) To determine whether an applicant to a board, commission or committee has a conflict of interest, applicants should review I.A.C. Chs. 362.5, 362.6 and 403A. Assistance is available from the City Attorney's office if applicants have questions about this matter.

(2) In the event a City Council member determines that he or she has a direct, definite (demonstrable) conflict of interest regarding an issue before the Council, that conflict should be clearly stated at the beginning of Council deliberations. Council members should consult the City Attorney, or private counsel of their own choosing, prior to deliberating or voting on a matter on which the Council member believes he or she may have a conflict of interest. The matter of what constitutes a "conflict of interest" is often misunderstood and misstated. People elected to public office are frequently motivated to seek office because of their personal interest in certain issues. The mere fact that their lives may generally be affected, either positively or negatively, by a decision of the City Council does not, by itself, create a conflict of interest. Rather, a legally significant conflict of interest stems from a conflict between a direct, definite and demonstrable personal interest of the Council member (particularly pecuniary, business or familial) and the judgment the Council member must exercise in the matter to be decided. Whether a conflict of interest exists can only be determined by applying the individual facts to the law. Again, Council members should consult legal counsel if in doubt about a conflict of interest issue.

(3) Another matter arises from time to time which may create the appearance of a conflict of interest. Elected officials are frequently solicited to join such organizations as the Chamber of Commerce, Marshall Economic Development and the like. Participation in these organizations results in an exchange of valuable information and views. Nevertheless, when such an organization takes a position in favor of or in resistance to a proposal pending before the City Council, at the very least the appearance of a conflict of interest exists. It may appear to the layperson that membership in the organization involved would create an irreconcilable conflict of interest. A case might be made that a City Council member has a conflict of interest while he or she is a member of an organization, if that organization appears before the City Council and takes an official position on an issue. Under such circumstances, it may be advisable for elected officials to abstain from voting on that issue. Again, consultation with legal counsel is advised.

(4) City officers or employees are restricted by I.A.C. § 362.5 with regard to direct or indirect benefits they may receive from any contract performed for the city. That code section provides as follows: "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 officers or employees of the city. A contract entered into in violation of this section is void."

(K) *Gifts.*

(1) The state covers restrictions of gifts in I.A.C. Ch. 68B. Any questions regarding the acceptance of gifts should be directed to the City Attorney.

(2) The City Council feels it is important to recognize special achievements among its citizens and employees. For that reason, the Council has authorized the purchase of plaques, certificates and memorabilia for the purpose of distinguishing special service. City staff is authorized to purchase such materials as necessary to carry out this policy.

(L) *Communications between staff, City Council and advisory groups.*

(1) The City Hall administrative staff report to the City Administrator and it is the City Administrator's responsibility to direct and allocate staff time. Similarly, City Council members and board, committee and commission members schedule their meetings so city staff may be available to carry out day-to-day business. The City Administrator will assign staff liaisons to assist boards, committees and commissions as necessary. Boards, committees and commissions meet regularly and, as a group, present their issues and concerns to the City Council through reports and recommendations.

(2) Advisory groups will consider the recommendations and proposals of the City Administrator and city staff. If the board, committee or commission is not in agreement with the recommendations of the city staff, the City Administrator should describe any difference of opinion in writing to the City Council. Any differences of opinion may be discussed at the Council meeting.

(M) *Removal of members of boards and commissions.* If the Mayor or the City Council wishes to remove an appointee, they shall follow the procedures required by state law or city code.

(N) *Abolishment of a board or commission.* The abolishment or modification of a board or commission shall be done in accordance with applicable state law or city code.

(Res. 2017-287, passed 10-9-2017)

§ 35.24 FISCAL MATTERS.

(A) The financial plan for the city's operating revenues and expenditures plus capital improvements is prepared according to state law and specific guidelines provided by the City Administrator.

(B) Departments develop capital projects deemed necessary according to requests from the City Council, boards, committees or commissions, the public, or the departments themselves. Any funds to be spent by boards, committees or commissions are budgeted in the financial plan of the department, which works with each respective body. Typically, a board, committee or commission that oversees operations of a department (such as the Library Board of Trustees or Water Works) will review and approve its financial plan before it is submitted to the City Administrator.

(C) The City Council will hold work sessions to review and finalize the entire financial plan. In accordance with state regulations, the proposed one-year budget is published in the local newspaper in general circulation, prior to a public hearing. The City Council simultaneously holds a public hearing on the entire financial plan and one-year budget and adopts them at the same time. The one-year budget is required by the state and must be adopted by March 15 of each year.

(D) For purchasing procedures for the city, see the city's purchasing policy.
(Res. 2017-287, passed 10-9-2017)

§ 35.25 PUBLIC PARTICIPATION IN MEETINGS.

(A) *Generally.*

(1) One of the goals of the City Council rules is to create an atmosphere of efficiency, fairness and maximum participation. It is the responsibility of the Mayor, the Council members, city staff and members of the public to maintain common courtesy and decorum throughout any meeting.

(2) Members of the public have the right to attend City Council meetings, subject to the need to maintain order and space limitations.

(3) The City Council meeting space will, to the extent possible, be arranged so that all interested persons can observe the meeting and hear all Council discussions and votes.

(4) The Mayor, Council members, city staff and members of the public should speak one at a time in a civil and courteous manner so as to be heard by all persons in attendance.

(5) All cell phones or other communication devices should be silenced during City Council meetings. No one should take a voice phone call during a Council meeting without first leaving the Council chambers and closing the chamber doors.

(B) *Public participation.*

(1) All persons attending are asked to observe the following when speaking:

(a) Only persons recognized by the Mayor will be allowed to speak. During public hearings or at other allowable times, members of the public will not address items on the agenda unless and until recognized by the presiding officer.

(b) A person recognized to speak should approach the podium, state his or her name and address, and make his or her statement as briefly as is possible. Speaking times are limited to three minutes.

(c) All speakers shall speak clearly and direct their comments to the Mayor and City Council and not to any Council member specifically.

(d) A person recognized to speak should maintain a courteous and polite demeanor, as well as refrain from using inappropriate, combative, profane or abusive language, or attacking the character of city officials and employees in a personal manner.

(e) Persons may address the City Council for the reading of protests, petitions or communications relating to any matter over which the Council has jurisdiction. When anyone appears before the City Council stating he or she has a petition, the Mayor will accept the petition and the minutes will reflect that action. The Mayor and City Council are not permitted to respond to or engage in debate or discussion concerning subjects raised by members of the public which are not on the posted agenda.

(f) A person should not address the City Council about issues that are known to be within the responsibility of other city staff/officials and have not been previously presented to that responsible party.

(g) Persons should not engage other members of the public while addressing the City Council or engage individual Council members in a discussion, except as permitted by the Mayor.

(2) Council members may, in their individual discretion, make themselves available to persons attending the meeting before or after the City Council meeting.

(C) *Handling requests during meetings.* The City Council may not take action on any matter not specifically posted on the agenda. However, city staff may note any request for immediate action by city staff or, if necessary, by the City Council at a later meeting.

(Res. 2017-287, passed 10-9-2017)

§ 35.26 PUBLIC RECORDS AND OPEN MEETINGS LAW.

(A) *Public records/open records.* Availability of public records is governed by the Iowa Open Records Law, I.A.C. Ch. 22.

(B) *Open Meetings Law.* The Iowa Open Meetings Law is addressed in I.A.C. Ch. 21.

(Res. 2017-287, passed 10-9-2017)

TITLE V: PUBLIC WORKS

Chapter

- 50. GARBAGE AND REFUSE
- 51. SOLID WASTE MANAGEMENT ASSESSMENT
- 52. SEWERS AND SEWAGE DISPOSAL
- 53. STORM WATER
- 54. ILLICIT DISCHARGES TO STORM SEWER SYSTEM
- 55. EROSION AND SEDIMENT CONTROL FOR CONSTRUCTION

SITES

- 56. POST-CONSTRUCTION STORM WATER MANAGEMENT
- 57. STREETS AND SIDEWALKS
- 58. VEGETATION
- 59. MAILBOXES

CHAPTER 50: GARBAGE AND REFUSE

Section

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GENERAL PROVISIONS

§ 50.001 DEFINITIONS.

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

AREA. The legally defined boundaries of the city.

COMMERCIAL AND INDUSTRIAL UNITS/OCCUPANTS. All locations within the city that are not considered residential units/occupants under this chapter. Mobile home parks where a single meter meters water services are considered **COMMERCIAL**. All rental units or complexes of four or more residential rental units are considered **COMMERCIAL UNITS**. **COMMERCIAL AND INDUSTRIAL UNITS** are subject to this chapter.

COMMISSION. The Solid Waste Management Commission of the county.

COMPOSTABLE MATERIAL. All yard wastes, except tree limbs, bark or branches from trees or shrubs with any diameter of one-fourth inch or more.

CONTAINERS or **BINS.** Those containers and bins for collection of garbage or recyclables.

CURBSIDE. The portion of the right-of-way adjacent to paved or traveled city roadways contiguous to the frontage of properties in the city. The term **CURBSIDE** also means at any point further than five feet from the front line of any dwelling, structure, business or building. See the definition of the term “front” in this section.

CURBSIDE COLLECTION. The collection of all garbage or recyclables placed curbside or in front of the house as near to the street as possible if no curb exists.

FRONT. The operation of a dwelling, business or other structure facing any street, highway or other place. A structure may have more than one **FRONT** if it faces on more than one street, highway or other place; for example, a corner lot. On a structure that has no lines parallel to the street, highway or other place, the **FRONT** shall be that portion most nearly parallel to the street, highway or place and, if the sides are equally parallel to the street, highway or other place, the two sides shall both be the **FRONT**. Where the front line is uneven, the term **FRONT** means the most forward portion of the structure.

GARBAGE and REFUSE. Every waste accumulation of animal, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit or vegetables. Dead animals are not included in the term **GARBAGE**. The term **REFUSE** means all other miscellaneous waste materials not specifically defined as “garbage” or specifically defined as “recyclable”.

MEMBER. The city.

PERSON. Any individual, firm, association, syndicate, co-partnership, corporation, trust, other legal entity having proprietary interest in premises or other legal entity having responsibility for an act.

RECYCLABLES. Those items defined as recyclables:

- (1) Tin;
- (2) Clear glass bottles and jars;
- (3) Plastic milk jugs designated No. 2 H.D.P.E.;
- (4) Newsprint;
- (5) Office paper;
- (6) Cardboard (corrugated);
- (7) Magazines, slicks and catalogues (no phone books);
- (8) Waste oil in leak-proof containers; and
- (9) Lead-acid batteries (casing undamaged).

RECYCLABLES HAULER. Any person desiring to pick up and transport for processing any recyclable in the city. Anyone subcontracting to perform any such recycling pick-up or transportation task is also considered a **RECYCLABLES HAULER** under this definition.

RECYCLABLES TRANSPORTATION VEHICLE or VEHICLE. A vehicle, as defined by state law, which is or is intended to be used to transport recyclables.

RESIDENTIAL UNIT/OCCUPANT. Each single-family home or multifamily dwelling located within the corporate limits of the city and occupied by a person or group of persons, except mobile home parks as described in the definition of “commercial and industrial units” in this section. However, all residential rental structures or residential complexes of four or more rental units are considered commercial units. Any home occupation (Class 1 or Class 2) found in areas zoned R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A and R-5, all as defined by Ch. 156 of this code of ordinances, shall be considered

a **RESIDENTIAL UNIT/OCCUPANT** under this chapter for purposes of disposal of garbage and recyclables generated by the home occupation.

SOLID WASTE. Garbage, refuse, rubbish and other similar discarded solid or semi-solid materials, including, but not limited to, such materials resulting from industrial, commercial, agricultural and domestic activities.

TREE PROCESSING MATERIAL. Yard wastes which are not compostable material and tree stumps.

VOLUME-BASED GARBAGE SYSTEM. A system with an ever-increasing charge based upon number of containers utilized or upon actual weight of garbage generated.

YARD WASTE. Organic debris produced as part of yard and garden development and maintenance, such as grass clippings, leaves, bark, branches, twigs, flowers, fruit, vegetables and trees.

(2013 Code, § 13-1) (Ord. 10761A, passed 5-24-1965; Ord. 11654, passed 4-22-1970; Ord. 12788, passed 9-22-1975; Ord. 12797, passed 10-16-1975; Ord. 12993, passed 9-27-1976; Ord. 14340, passed 12-27-1990; Ord. 14472, passed 8-25-1994; Ord. 14473, passed 8-8-1994; Ord. 14710, passed 3-24-2003)

§ 50.002 RESERVATION OF CITY'S RIGHTS.

The city reserves the right to enter into contract at any time with any license holder or others for the collection and disposal of garbage and refuse within the city or may itself operate and maintain such service.

(2013 Code, § 13-2) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14710, passed 3-24-2003)

§ 50.003 RECEPTACLES REQUIRED; SPECIFICATIONS.

Except as provided under § 50.004 of this chapter, it shall be unlawful for any person, firm or corporation to deposit or place any garbage in any street, alley, lane, public place or private property outside of buildings within the city unless the garbage is enclosed in a water-tight metal or plastic receptacle and the receptacle is provided with handles or bales and a tight-fitting cover and with a capacity not exceeding 30 gallons, except commercial dumpsters and the like furnished by the collectors to commercial customers.

(2013 Code, § 13-3) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14710, passed 3-24-2003) Penalty, see § 50.999

§ 50.004 RECEPTACLE WITH PAPER OR PLASTIC BAG INSERTS.

If the receptacle required under provisions of § 50.003 of this chapter consists of a tight-fitting metal cover and an approved metal stand or cabinet, water-tight, leak-proof paper or plastic bags may be used for the retention and disposal of garbage

or refuse, but shall only be used as inserts. The capacity of the paper or plastic bag insert shall not exceed 36 gallons.

(2013 Code, § 13-4) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14710, passed 3-24-2003) Penalty, see § 50.999

§ 50.005 PREPARATION OF REFUSE FOR COLLECTION.

Refuse shall be placed in baskets or boxes, and the baskets or boxes shall be provided with handles. Newspapers and magazines shall be bundled and tied. Hedge and tree trimmings shall be securely tied in bundles not more than six feet in length or more than two feet in diameter.

(2013 Code, § 13-5) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14710, passed 3-24-2003) Penalty, see § 50.999

§ 50.006 APPROVED METHODS OF DISPOSAL.

(A) Garbage or refuse may be disposed of by householders or the occupant of any building or place of business by:

- (1) Delivery to a licensed collection agency;
- (2) Hauling to state-approved landfill disposal area and dumping there as directed by the custodian in charge; provided that, the containers are covered and water-tight; and/or
- (3) Disposal of garbage in a home garbage disposal unit.

(B) It shall be unlawful for any person, firm or corporation to dispose of yard waste, except as follows:

(1) All yard waste shall be separated by the owner or occupant of the premises from garbage and refuse, as defined in § 50.001 of this chapter, accumulated on the premises and shall be composted on the premises, transported to a City Council approved composting/tree processing facility or otherwise be legally disposed of, and no yard waste shall be deposited in a landfill. All yard waste transported to City Council approved composting/tree processing facilities shall be separated into compostable material and tree processing material.

(2) It shall be unlawful for any licensed hauler to collect compostable yard waste unless contained in the city logo bags.

(3) It shall be unlawful to place any material other than compostable material in such bags.

(4) All tree processing materials shall be separated from all compostable materials and bundled in a manner suitable for handling.

(5) Fees for the use of the city-owned composting/tree processing facility shall be adopted by resolution of the City Council.

(6) Hours of operation of the city composting/tree processing facility shall be established by the Director of Public Works/City Engineer, and it shall be unlawful to dump or dispose of yard waste at such facility, except during hours of operation, or without specific approval by the city's Engineering Department.

(C) It shall be unlawful for any person to dispose of garbage or refuse, yard waste or recyclables in any manner other than provided in this section.

(D) Garbage or refuse, yard waste or recyclables shall not be burned.
(2013 Code, § 13-6) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14710, passed 3-24-2003; Ord. 14830, passed 5-12-2008) Penalty, see § 50.999

§ 50.007 HOUSEHOLDER TO PROVIDE AND MAINTAIN RECEPTACLE; WRAPPING REQUIRED.

(A) (1) The proper receptacle for the receiving and holding of garbage shall be furnished by the householder or the occupant of any building or place of business, and the receptacle shall be kept covered and in a sanitary condition at all times. Responsibility for providing receptacles for rental property shall be the landlords.

(2) Garbage shall be wrapped when placed in the receptacle.

(B) It shall be the duty of any person, firm or corporation using or maintaining a garbage receptacle to cause the receptacle to be emptied of its contents before it is so full that the cover will no longer fit tightly.

(C) All garbage or refuse placed for pick-up by any commercial, industrial or residential unit/occupant must be in a plastic bag, if contained in a container other than a garbage can or bin.
(2013 Code, § 13-7) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976) Penalty, see § 50.999

§ 50.008 LOCATION OF RECEPTACLE.

(A) All garbage or refuse, yard waste or recyclables, whenever practical, shall be delivered by the householder or the occupant of any building or place of business to the ground level for collection, and the receptacle therefor must be kept in a location convenient for collection.

(B) It shall be unlawful for any person to place, set or throw or otherwise put garbage or any paper, metal, plastic or any other material receptacle containing garbage between the line of any street, highway or other place and the front line of any dwelling, business or other structure, except on collection day when it can be placed no more than five feet in front of the front line of the dwelling, business or other structure. For purposes of this section, the front line shall be extended from the structure corner to the side lot lines.

(C) (1) It shall be unlawful for any person, firm or corporation, licensed to collect garbage or refuse, yard waste or recyclables within the city, to pick up, collect or take into possession any garbage, as defined by § 50.001 of this chapter, paper, metal, plastic or any other material found between the line of any street, highway or other place and five feet in front of the front line of any dwelling, business or other structure.

(2) For purposes of this section, the front line shall be extended from the structure corner to the side lot lines.

(D) (1) The city can provide a waiver, at the city's sole discretion, for the placement of garbage receptacles or refuse in front of a dwelling, business or other structure if the placement of the receptacle or refuse is for the community benefit, or a one time occurrence.

(2) Examples may include receptacles downtown on Main Street, the city's annual spring clean- up or a construction dumpster.

(3) Said waiver shall also allow for the lawful collection of said material by the city or a licensed garbage or refuse hauler.

(2013 Code, § 13-8) (Ord. 10761A, passed 5-24-1965; Ord. 12788, passed 9-22-1975; Ord. 12993, passed 9-27-1976; Ord. 14462, passed 6-13-1994) Penalty, see § 50.999

§ 50.009 LITTERING.

It shall be unlawful for any person, firm or corporation to deposit, throw or place any refuse or garbage in any street, alley, lane, public place or private property outside of buildings within the city unless the refuse or garbage is to be hauled away and, pending hauling, is kept in such a manner as in no way to constitute a nuisance, hazard or annoyance to others.

(2013 Code, § 13-9) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976) Penalty, see § 50.999

LICENSING AND COLLECTION REGULATIONS

§ 50.020 LICENSE TO COLLECT GARBAGE OR REFUSE, YARD WASTE AND RECYCLABLES REQUIRED.

It shall be unlawful for any person, firm or corporation to collect garbage or refuse, yard waste or recyclables within the city, except from his or her own residence or business property, without first obtaining a license from the city.

(2013 Code, §§ 13-10, 13-53 and 13-83) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14340, passed 12-27-1990; Ord. 14472, passed 8-25-1994) Penalty, see § 50.999

§ 50.021 APPLICATION FOR LICENSE; APPROVAL.

(A) Application for a license to collect garbage or refuse, yard waste or recyclables shall be made at the office of the City Clerk on forms provided by the Clerk. The applicant shall file with his or her application a certificate or affidavit of insurance, as set forth in § 10.999 of this code, shall pay the required license fee and garbage haulers present current proof of having passed inspection.

(B) Upon receipt of such application and accompanying documents properly executed and otherwise proper and accurate, including, but not limited to, the certificate or affidavit of insurance, upon receipt of the license fee and upon inspection approval, the City Clerk shall issue the license for no more than one year, as set forth in § 10.999 of this code.

(C) If the Clerk denies the license, the applicant may appeal to the City Council by the procedure provided in § 110.003 of this code of ordinances.
(2013 Code, § 13-11) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14609, passed 12-30-1998)

§ 50.022 INSURANCE REQUIRED OF LICENSEE; CERTIFICATE; LIABILITY COVERAGE.

The garbage or refuse hauler, yard waste hauler or recyclable hauler shall not be permitted to commence work under this chapter until he or she has obtained all required insurance and filed proof of such with the City Clerk, pursuant to § 10.009 of this code of ordinances.

(2013 Code, § 13-12) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976)

§ 50.023 LICENSE EXPIRATION.

All licenses issued pursuant to this chapter shall expire pursuant to § 10.009 of this code of ordinances.

(2013 Code, § 13-13) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14609, passed 12-30-1998)

§ 50.024 LICENSE FEE.

The fee for the license issued under this chapter shall be set by City Council resolution.

(2013 Code, § 13-14) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976)

§ 50.025 LICENSE RENEWAL.

The annual license of all persons licensed under this chapter shall be automatically renewed from year to year upon the payment of the fee provided in this chapter, filing of certificate of proper insurance coverage and filing of an approved vehicle inspection for garbage haulers.

(2013 Code, § 13-15) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976)

§ 50.026 LICENSE REVOCATION.

The City Council may, for a violation of the provisions of this chapter, revoke any license granted in this chapter, after notice and public hearing, upon compliance with the procedures set out in this chapter.

(2013 Code, § 13-16) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976)

§ 50.027 FREQUENCY OF COLLECTION.

(A) Collections of garbage or refuse from private residences shall be made not less than one time per week.

(B) Collections of garbage from hotels, restaurants, clubs, boardinghouses or other places of like character, where considerable garbage is produced daily, shall be made on a more frequent basis.

(2013 Code, § 13-17) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976)

§ 50.028 COLLECTION VEHICLES; SPECIFICATIONS, MAINTENANCE AND LOADING.

(A) All vehicles used in the transportation of garbage or refuse, yard waste or recyclables within the city shall be kept in a sanitary and safe condition and shall be so constructed as to prevent leakage in transit, wholly enclosed and covered. The city may inspect any vehicle used by any hauler to see that it is in compliance with this chapter.

(B) All persons licensed under the terms of this chapter shall use packer-type trucks for normal garbage or refuse collection purposes. Such vehicles shall include a mechanical device for packing or compressing garbage or refuse, which device shall be used and operated at all times in collection and disposal of garbage or refuse and kept in good working order. All truck bodies used for the disposal of garbage and refuse shall be washed out periodically to minimize odors.

(C) Recyclables and yard waste shall be transported in a vehicle, trailer, bin or container, which is enclosed, covered, leak resistant and of an easily cleanable construction. If such vehicles are also used for garbage or refuse collection, they shall be cleaned and disinfected prior to use for yard waste collection.

(D) If the city determines that a refuse hauler is responsible for the loss of any refuse within the city, the hauler shall be responsible for the pick-up and clean-up of the refuse. If the city is required to pick up or clean up the refuse, the responsible hauler shall pay the cost of doing such.

(2013 Code, § 13-18, 13-20 and 13-115) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14473, passed 8-8-1994; Ord. 14876, passed 7-12-2010; Ord. 14913, passed 11-26-2012) Penalty, see § 50.999

§ 50.029 PICK-UP SERVICE; SERVICING OF COMPLAINTS.

Each garbage or refuse collector shall maintain an adequate and prompt pick-up service. He or she shall service all complaints from patrons on missed service and improper handling. Such service shall be promptly available for servicing complaints from the office of the City Clerk for any material improperly deposited within the limits of streets or highways during transit.

(2013 Code, § 13-19) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976) Penalty, see § 50.999

§ 50.030 ALTERNATE DROP-OFF SITE.

If a private recyclable drop-off site is not available to all city citizens and within the city limits, individual recyclables haulers shall, either individually or in concert (one or more recyclables haulers) or by contract with a private entity, provide a drop-off site for recyclables that shall be available to all city citizens. If required to provide a drop-off site, each person making an application for a recyclables hauler's license shall file, in writing, a statement setting out the location and hours of service for such voluntary drop-off site. The charge made for recyclables received at the drop-off site is to be set by the recyclables hauler.

(2013 Code, § 13-114) (Ord. 14732, passed 1-12-2004)

§ 50.031 PARKING OF COLLECTION VEHICLES IN RESIDENTIAL DISTRICTS.

(A) No vehicle used in the transportation of garbage and refuse within the city shall be parked or left standing in any residential district, as defined or delineated in Ch. 156 of this code of ordinances, as amended, except for the loading or picking up of garbage or refuse.

(B) This section shall not apply to the driver of any such vehicle that is disabled while in the residential district to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such district.

(C) In no event shall any such disabled vehicle remain over 12 hours.
(2013 Code, § 13-21) (Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976) Penalty, see § 50.999

§ 50.032 INSPECTION OF EQUIPMENT.

(A) Every application for a license required by this chapter or a license renewal shall contain a certification by the applicant that the applicant has inspected the equipment to be used in the transportation of garbage or refuse and that the equipment is in good mechanical condition and free of leaks.

(B) It shall be a municipal infraction to operate equipment that leaks or allows garbage or refuse to spill from the equipment.

(2013 Code, § 13-22) (Ord. 12993, passed 9-27-1976; Ord. 14310, passed 1-8-1990)
Penalty, see § 50.999

VOLUME-BASED GARBAGE COLLECTION; SPECIFIC RECYCLABLES

§ 50.045 VOLUME-BASED CHARGES.

Any individual or entity holding a license to haul garbage and refuse in the city shall charge based upon the volume of garbage and refuse generated. These volume-based charges may be made through the number of containers or bins utilized or based upon actual weight collected.

(2013 Code, § 13-77) (Ord. 14472, passed 8-25-1994; Ord. 14710, passed 3-24-2003)

§ 50.046 RECYCLING REQUIRED.

(A) Each commercial, industrial and residential unit/occupant in the city shall recycle those items designated as recyclables in § 50.001 of this chapter. Those items designated as recyclables shall not be disposed of, except by delivery by the commercial, industrial or residential unit/occupant or by a licensed recyclable hauler to an individual or entity engaging in recycling of the item involved.

(B) No recyclables shall be disposed of by depositing the recyclables with garbage or refuse, and no licensed hauler shall pick up any recyclable commingled with garbage or refuse.

(C) No licensed recyclable hauler is required to pick items designated as recyclables in § 50.001 of this chapter as a part of its regular customer pick-up. However, any licensed recyclable hauler making any scheduled recyclable pick-up shall pick up items designated as recyclables in § 50.001 of this chapter.

(2013 Code, § 13-78) (Ord. 14472, passed 8-25-1994) Penalty, see § 50.999

§ 50.047 RIGHT OF CITY TO DESIGNATE RECYCLABLES.

The city reserves the right to add other items as designated recyclables at a later date, including, but not limited to:

- (A) Aluminum;
- (B) Bimetal cans;
- (C) Brown and green glass; and
- (D) No. 1 P.E.T.E. plastics and other No. 2 H.D.P.E. plastics.

(2013 Code, § 13-80) (Ord. 14472, passed 8-25-1994)

§ 50.048 PUBLIC EDUCATION.

(A) (1) The recyclables hauler will develop a plan of education so as to inform his or her clientele of the requirements of this subchapter imposed upon the collection of garbage, refuse and recyclables.

(2) This plan of education shall be submitted, along with the license application, for review and approval as a part of the licensing process.

(3) As a part of this educational effort, the recyclable hauler will distribute, in printed form, a statement of his or her collection schedule as well as a statement of items that are recyclable and an explanation concerning how the garbage/refuse and recyclable system is to operate. This printed statement shall be distributed to existing and new customers in either English and Spanish language form as required.

(4) Any cost associated with the educational effort shall be the exclusive responsibility of the recyclables hauler.

(B) The city shall make available unrented advertising space, as is available to the city, without cost for use as a part of this educational effort and shall provide such other assistance as is reasonably possible at no cost to the city.

(2013 Code, § 13-106) (Ord. 14473, passed 8-8-1994)

§ 50.049 FILING OF VOLUME-BASED PLAN AND REPORTING TONNAGE.

(A) All garbage haulers shall file, in writing, a description of their volume or weight based system concerning garbage and refuse. Such a volume or weight based system shall create a financial incentive to recycle and reduce the volume of garbage and refuse generated. Filing of this required written statement is a condition that must be satisfied prior to the issuance of a recyclables hauler's license.

(B) All recyclables haulers shall report to the Solid Waste Management Commission of the county on a monthly basis the tonnage figures representing the actual weight of all recyclables picked up by the recyclables hauler during that respective month. This report shall be in writing.

(2013 Code, § 13-113) (Ord. 14473, passed 8-8-1994)

SANITARY LANDFILL

§ 50.065 DESIGNATION AS PUBLIC DISPOSAL SITE.

By virtue of contract (28E Agreement) approved between the member and the Solid Waste Management Commission, the sanitary landfill sites operated by the Commission are designated as the public disposal sites for all garbage, solid waste and refuse collected within the corporate limits of the member.

(2013 Code, § 13-35) (Ord. 12797, passed 10-16-1975)

§ 50.066 RULES AND REGULATIONS GOVERNING USE.

The rules and regulations governing the use of the sanitary landfill sites shall be as determined by the "Commission" to be in the best interests of the member.
(2013 Code, § 13-36) (Ord. 12797, passed 10-16-1975)

§ 50.067 DAYS OF OPERATION.

The landfill sites shall normally be open to the public on such days and hours as the "Commission" may designate; however, the "Commission" may alter the days and hours so scheduled to satisfy unusual conditions or emergencies.
(2013 Code, § 13-37) (Ord. 12797, passed 10-16-1975)

§ 50.068 OPERATION.

(A) The "Commission" shall be responsible for the operation of the landfill sites in a manner which will ensure sanitary and safe conditions at all times.

(B) The operation of the landfill sites shall comply with all regulations of all local, state, county or federal agencies, which may have jurisdiction over such operation.
(2013 Code, § 13-38) (Ord. 12797, passed 10-16-1975)

§ 50.069 DISPOSAL OF SOLID WASTE ON DESIGNATED SITE.

No person shall permanently dispose of solid waste of any kind upon any land within the corporation limits of the member unless the commission has designated such land as a public landfill site approved by the state's Department of Natural Resources. However, the prohibition contained in this section shall not apply to the deposit of inert wastes, not potentially injurious to health or the public welfare where permission to make such a deposit has been obtained from the owner or responsible agent, nor to the filling in or grading of property with earth, mud, ashes or similar materials; provided, however, that, all applicable local and state laws have been complied with.
(2013 Code, § 13-39) (Ord. 12797, passed 10-16-1975)

§ 50.070 COMPLIANCE WITH COMMISSION'S INSTRUCTIONS.

No person shall deposit any solid waste at any "Commission" landfill site, except in compliance with posted instructions or instructions of an attendant in charge.
(2013 Code, § 13-40) (Ord. 12797, passed 10-16-1975) Penalty, see § 50.999

§ 50.071 EXCLUSION OF CERTAIN MATERIALS.

Certain materials may be excluded from those refuse materials which may be deposited at a "Commission" landfill site. These excluded materials may include junk automobile bodies and similar bulky objects which may require special processing prior to disposal; trees and tree limbs; burning materials or materials containing hot or live coals; hazardous materials; and other materials which the Commission deems necessary to exclude.

(2013 Code, § 13-41) (Ord. 12797, passed 10-16-1975)

§ 50.072 PRIVATE PAYMENT FOR DISPOSAL.

(A) It shall be unlawful for any person, other than the "Commission" or a member on its behalf, to receive payment of any kind or request payment of any kind for the disposal of any solid waste at any sanitary landfill site.

(B) The charging of a fee for the collection of any garbage or other solid waste from a customer by a private refuse collector shall not be construed as a violation of this section, since the disposal is considered to be incidental to the total collection and disposal service; provided, however, such collection and disposal shall be conducted entirely by forces with equipment owned or operated by the private refuse collector.

(2013 Code, § 13-42) (Ord. 12797, passed 10-16-1975) Penalty, see § 50.999

§ 50.073 FEES FOR USE OF FACILITIES.

Fees paid to or for the benefit of the "Commission" for the use of the public landfill facilities shall be in accordance with the posted and/or published schedule of fees of the "Commission" or the member, as provided in the contract referred to in § 50.065 of this chapter.

(2013 Code, § 13-43) (Ord. 12797, passed 10-16-1975)

§ 50.074 ENFORCEMENT.

It shall be the duty of the Police Department and all police officers of the member to enforce the provisions of this chapter.

(2013 Code, § 13-44) (Ord. 12797, passed 10-16-1975)

§ 50.999 PENALTY.

(A) Any person who violates the provisions of this chapter for which no specific penalty is prescribed shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances. In addition to the criminal penalty set forth in this division (A), a violation of this chapter for which no specific penalty is prescribed is a municipal infraction.

(2013 Code, § 13-60)

(B) (1) The fine for each violation of § 50.028 of this chapter shall be \$65, plus surcharges.

(2) The method and procedure of payment and collection for each violation of § 50.028 of this chapter shall be the same as that provided for the payment collection of fines for violation of city ordinances under state law.

(2013 Code, § 13-18)

(Ord. 10761A, passed 5-24-1965; Ord. 12993, passed 9-27-1976; Ord. 14340, passed 12-27-1990; Ord. 14473, passed 8-8-1994; Ord. 14472, passed 8-25-1994; Ord. 14830, passed 5-12-2008; Ord. 14876, passed 7-12-2010; Ord. 14913, passed 11-26-2012; Ord. 14933, passed 9-8-2014; Ord. 14970, passed 11-27-2017)

CHAPTER 51: SOLID WASTE MANAGEMENT ASSESSMENT

Section

- 51.001 Annual assessment
- 51.002 Exemptions
- 51.003 Appeal
- 51.004 Collection

§ 51.001 ANNUAL ASSESSMENT.

(A) Each industrial and commercial assessment amount in the annual total amount, and each single-family and multiple-family assessment in the annual total amount per individual family unit for a fiscal year shall be set by resolution of the City Council.

(B) These annual totals shall be billed on a monthly or bimonthly basis, as determined by the city, in a manner convenient to the city.

(C) This manner of billing and collection may include inclusion of this amount on the water bill issued through the offices of the Board of Waterworks Trustees.

(2013 Code, § 28-16)

(D) The assessment charge shall be applied as follows:

(1) *Commercial property.* All commercial properties shall pay a single assessment charged against each water meter serving such commercial property.

(2013 Code, § 28-17)

(2) *Industrial property.* All industrial properties shall pay a single assessment charged against each water meter serving such industrial property.

(2013 Code, § 28-18)

(3) *Single-Family Residential.* A single assessment shall be made against each single-family residential unit served by a single water meter.

(2013 Code, § 28-19)

(4) *Multiple-family units.* Multiple-family units, whether each unit is occupied or unoccupied, shall pay one assessment per individual living unit, regardless of whether a single owner has title to the entire multi-unit complex. The owner shall pay

a single assessment amount for each such individual living unit. **MULTIPLE-FAMILY UNITS** are defined as dwellings that are designed for occupancy by more than one family or group of individuals. The number of multiple units shall be measured by the number of families or individual groups which may be housed in such a structure and not by the number of water meters serving the multiple-family unit. The city may rely upon current data or the records of the housing and inspection officials in the city to determine the number of individual family units in any multiple-family unit complex. (2013 Code, § 28-20)

(5) *Agricultural property.* Property utilized for agricultural purposes shall be assessed a single assessment charge against each water meter serving such agricultural property. In addition, agricultural property that has a house or other structure upon it shall be assessed a single assessment regardless of whether there is a water meter serving such agricultural property. (2013 Code, § 28-21)

(6) *Trailer courts.* Each individual lot of a trailer court shall be considered a separate family unit for purposes of assessment in this chapter. Trailer courts shall be assessed as multiple-family units pursuant to the other sections of this chapter. Each individual trailer lot shall be subject to a separate assessment, whether occupied or unoccupied. (2013 Code, § 28-22)

(7) *Property outside city limits.* The city does provide some metered water to individuals living outside of the corporate limits of the city. Such metered users shall not pay an assessment to the city for solid waste purposes. (2013 Code, § 28-23)

(Ord. 14571, passed 6-23-1997; Ord. 14627, passed 4-12-1999; Ord. 14706, passed 2-24-2003; Ord. 14711, passed 3-24-2003)

§ 51.002 EXEMPTIONS.

No property shall be exempt for any reason, which would otherwise qualify for assessment under this chapter, based upon any status for tax exemption purposes, historical designation or specific use. However, the city shall not be liable for the charges made under this chapter.

(2013 Code, § 28-24) (Ord. 14571, passed 6-23-1997)

§ 51.003 APPEAL.

Any citizen or entity desiring to appeal any assessment made under this chapter may do so through the office of the City Administrator. Any such appeal hearing shall be informal in all respects and shall be conducted by the City Administrator whose decision can only be reviewed by the City Council.

(2013 Code, § 28-25) (Ord. 14571, passed 6-23-1997)

§ 51.004 COLLECTION.

All owners of real property who do not pay the assessment required by this chapter shall be subject to certification of any delinquency as a lien upon such real property, which lien shall be collected in the same manner as general property taxes. If the assessment amount is included as a part of the water bill to be paid by the property owner, the water service may be terminated if the assessment amount is not paid. (2013 Code, § 28-26) (Ord. 14571, passed 6-23-1997; Ord. 14711, passed 3-24-2003)

CHAPTER 52: SEWERS AND SEWAGE DISPOSAL

Section

General Provisions

- 52.001 Discharge of sewage into public streets prohibited
- 52.002 Sanitary sewer connections; authority of city to require
- 52.003 Sanitary sewer connections to properties outside city limits; plans and specifications; notice to property owners; action by city when owner fails to comply
- 52.004 Assessment of costs as tax when city required to make connection
- 52.005 Connection fees from non-assessed properties
- 52.006 Sewer deposit
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- 52.020 Definitions
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- 52.022 Discharge of untreated wastes prohibited
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- 52.026 Power of city to control waste discharges to sanitary sewer system
- 52.027 Installation of sampling and metering equipment
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52.999 Penalty

GENERAL PROVISIONS

§ 52.001 DISCHARGE OF SEWAGE INTO PUBLIC STREETS PROHIBITED.

It shall be unlawful for any person, firm or corporation to discharge sewage or liquid waste materials of any kind or nature into the public streets or alleys of the city. (2013 Code, § 28-27) (Ord. 61, passed 8-14-1950) Penalty, see § 52.999

§ 52.002 SANITARY SEWER CONNECTIONS; AUTHORITY OF CITY TO REQUIRE.

The city shall have power to require the owner of any platted lot, out-lot, subdivision of any lot or tract of ground or of any unplatted subdivision or tract of ground to make sanitary sewer connections to the curb line adjacent thereto from the main sanitary sewer in the street fronting such lot or other tract before such street is permanently improved.

(2013 Code, § 28-28) (Ord. 8086, passed 4-24-1951)

§ 52.003 SANITARY SEWER CONNECTIONS TO PROPERTIES OUTSIDE CITY LIMITS; PLANS AND SPECIFICATIONS; NOTICE TO PROPERTY OWNERS; ACTION BY CITY WHEN OWNER FAILS TO COMPLY.

(A) In the event the owner of property located outside the city limits on which a building or facility requiring drainage is situated within 200 feet of an existing sanitary sewer main or sanitary sewer lateral, which is maintained by the city, desires to have said property connected to the sanitary sewer system maintained by the city, the following procedure is prescribed.

(1) The owner must make an application to the City Council to have said property annexed to the city and become a part thereof. Said application shall be reviewed by the Director of Public Works/ City Engineer, who shall approve and recommend action on the application for annexation.

(2) The property owner shall pay all required costs, fees and charges for connection to the city's sanitary sewer system and upon approval of said application, the owner shall be subject to all requirements contained in this chapter.

(2013 Code, § 28-28)

(B) The Director of Public Works/City Engineer shall prepare plans and specifications for making sanitary sewer connections, prescribing the size and kind of pipe to be used and the manner and method of installing the sewer connection and shall file such plans and specifications with the City Clerk.

(2013 Code, § 28-29)

(C) A property owner shall be given notice to construct sanitary sewer connections as provided by this chapter. Such notices shall be signed by the City Clerk and shall be served by personal delivery to the property owner or by mailing thereto by registered mail or by publication in one issue of a newspaper published and having general circulation in the city. Proof of notice shall be filed with the City Clerk. The notice provided for in this section shall be addressed to the owner of record of the property affected and shall contain a description of the property to which such sanitary sewer connection is required to be made, a reference to the plans and specifications to be observed and the time when such connection shall be completed, which shall be not less than ten days after the completed service of such notice.

(2013 Code, § 28-30)

(D) If any property owner fails to make sanitary sewer connection in the manner provided by the plans and specifications required by division (B) above and within the time fixed by the City Council and as contained in the notice to the property owner, the city may cause such sanitary sewer connections to be made and assess the cost thereof against the property.

(2013 Code, § 28-31)

(Ord. 8086, passed 4-24-1951; Ord. 14944, passed 1-11-2016)

§ 52.004 ASSESSMENT OF COSTS AS TAX WHEN CITY REQUIRED TO MAKE CONNECTION.

The costs accruing as a result of action taken under § 52.003(D) of this chapter shall be the actual costs to the city as nearly as can be determined and shall be assessed in one installment by resolution of the Council. If not paid to the City Clerk within 30 days thereafter, it shall be certified to the County Auditor as a special assessment to be placed on a tax list against the property to be collected as a special tax thereon.

(2013 Code, § 28-32) (Ord. 8086, passed 4-24-1951)

§ 52.005 CONNECTION FEES FROM NON-ASSESSED PROPERTIES.

(A) *Before 1-1-1974.* A connection fee or charge is established for sanitary sewer service installed prior to 1-1-1974, to property not assessed for the installation of a sanitary sewer abutting such property or available for a sewer connection thereto of \$5 per front foot of that portion of the property being served by such connection.

(B) *After 1-1-1974.* A connection fee or charge is established for sanitary sewer service installed after 1-1-1974, to property not assessed for the installation of a sanitary sewer abutting such property or available for a sewer connection thereto of the actual cost of construction as proportioned to the property by the Director of Public Works/City Engineer. This amount shall not exceed the cost of a ten- inch sewer. The Director of Public Works/City Engineer shall prepare and file in the office of the City Clerk a statement of such costs, and a connection permit from such property to the sanitary sewer system shall not be issued until provisions for payment of such proportionate cost to such property is made with the city.

(C) *Sewer constructed under special assessment.* When a sanitary sewer improvement is constructed under special assessment procedure and property abutting thereon is not assessed its proportionate share of the costs, the Director of Public Works/City Engineer shall prepare and file in the office of the City Clerk a statement of such costs, and a connection permit from such property to the sanitary sewer system shall not be issued until provision for payment of such proportionate cost to such property is made with the city. If an easement is required for the construction of a sanitary sewer improvement across such property, the Council may waive all or any part of the cost as proportioned to the property by the Director of Public Works/City Engineer. The cost of such waived fees shall be paid out of the city's Water Pollution Control Fund.

(D) *Deferred payment of fee.* If the fee for connecting to the sanitary sewer is not made with the application for the permit for such connection, the property owner may pay 25% of such connection fee and may sign a waiver for deferred payments of the remaining balance of such cost, to be paid in five annual installments, together with interest at a rate set by I.C.A. § 74A.4 computed to December 1 following with the September payment of general taxes, and such property owner shall consent in writing for the filing of such assessment cost with the County Auditor for collection as provided in this section.

(2013 Code, § 28-33) (Ord. 12837, passed 12-26-1975)

§ 52.006 SEWER DEPOSIT.

There is established a sewer deposit for customers using the city sanitary sewer as follows.

(A) A deposit shall be required of any user who has not established a credit record satisfactory to the Superintendent of the water pollution control plant in an amount equal to the larger of the average quarterly sewer bill for the type of customer requesting service or \$40.

(B) Such deposit shall be refunded to the party posting it upon the cessation of use by the depositor or upon two years' satisfactory credit performance. If there are delinquent charges upon cessation of use, the deposit may be applied to the charges, and the balance, if any, shall then be refunded. Nothing in this division (B) shall prevent the Director from certifying delinquent sewer charges to the County Auditor for tax collection. Overdue sewer charges shall incur a penalty of 5%.

(2013 Code, § 28-34) (Ord. 14047, passed 7-27-1981; Ord. 14252, passed 4-27-1987; Ord. 14870, passed 3-8-2010)

§ 52.007 FEE FOR CONNECTION TO MUNICIPAL SANITARY SEWER UTILITY.

(A) *Sewer connection fee districts established.* Sewer connection fee districts are established for the purpose of collection within each such district of a fee from those property owners who shall make application to connect their properties to the municipal sanitary sewer utility of the city.

(B) *District descriptions.* The areas and properties included within the sewer connection fee districts shall be as set forth in the sanitary sewer preliminary connection fee schedule, dated 10-27-1997, referred to in this section as the "schedule", maintained in the office of the City Clerk, such areas being described as follows:

(1) Area 2 generally includes the lots and parcels within an area bounded by Anson Street on the north, an extension of South 14th Avenue on the west, the city limits on the east and the southern boundary approximately 1,320 feet south of Olive Street;

(2) Area 3 generally includes the lots and parcels within an area bounded by Anson Creek and an extension thereof on the west, approximately 1,320 feet south of the extension of Merle Hibbs Boulevard for the south boundary, and including properties abutting both sides of Governor Road from such south boundary to a point approximately 2,900 feet to the north of Merle Hibbs Boulevard, and terminating at the southern property line of Fisher Controls;

(3) Area 4 generally includes the lots and parcels within an area bounded by Highway 30 on the south, South Center Street on the west, 240th Street on the north and Governor Road on the east, and also including the south half of the southeast quarter of Section 11, the south half of the southwest quarter of Section 12,

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all within Township 83 North, Range 18 West, of the fifth principal meridian in the county;

(4) Area 5 generally includes the lots and parcels within an area bounded by Parker Avenue and the northerly extension thereof on the west, Highway 30 on the south, on the east by the east line of the northwest quarter of the northwest quarter of Section 14, Township 83 North, Range 18 West of the fifth principal meridian in the county, and including the properties abutting the north side of 240th Street from South 14th Street to South Sixth Street;

(5) Area 6 generally includes the lots and parcels within an area bounded by West Olive Street on the north, South Sixth Street on the east, Westwood Drive on the south and the western boundary of Elmwood Acres Subdivision on the west, and including the property located directly south of Westwood Drive at its intersection with Timberline Road;

(6) Area 7 generally includes the lots and parcels within an area bounded by Highland Acres Road on the east, 218th Street on the north, the city limits to the south and to the west line of the northeast quarter of Section 5, Township 83 North, Range 18 West of the fifth principal meridian in the county, including Milo Park Subdivisions and additions and properties abutting Marshalltown Boulevard;

(7) Area 8 generally includes the lots and parcels abutting the west side of Highland Acres Road from West Main Street to 218th Street, including all of the northeast quarter of the southeast quarter of Section 32, Township 84 North, Range 18 West of the county, but excluding the Pheasant Run Subdivision. Area 8 also includes properties abutting Highland Acres Road at its intersection with Arnold Drive, and the property described as Lot 1 of the subdivision of the northwest quarter of the southwest quarter of Section 33, Township 84 North, Range 18 West, except the Williamsburg Addition to the city;

(8) Area 9 generally includes the lots and parcels within an area bounded by the city limits on the north and the west, including the southwest quarter of the southwest quarter of Section 28; the properties abutting the south side of Summit Street from Union Pacific (C&NW) Railway to North 22nd Street, excepting the properties abutting the west side of North 22nd Street. Area 9 also includes the properties located within the subdivision of the southeast quarter of the southwest quarter of Section 28, Township 84 North, Range 18 West of the county, and the properties abutting West Main Street from Valley View Drive to Highland Acres Road; and including the properties located on the south side of West State Street at or near its intersection with North 21st Street;

(9) Area 10 generally includes the lots and parcels within an area bounded by West Lincoln Way on the south, West Main Street on the north, an extension of Belaire Drive on the west and an extension of Orchard Drive on the east, and including the properties abutting Ann Rutledge Road on the east at or near its intersection with Reyclif Drive, and the properties abutting the north side of West Lincoln Way between Orchard Drive and Brentwood Road;

(10) Area 11 generally includes the lots and parcels within an area bounded by 233rd Street on the south from Highland Acres Road to its point of intersection as extended to South 12th Street on the east; South 12th Street from such

point of intersection to West Lincoln Way being the east boundary, the north boundary being West Lincoln Way and the west boundary being Highland Acres Road; and

(11) Area 12 generally is described as the east 19 acres of the northeast quarter of Section 26 and the west half of the northwest quarter of Section 25, except the south 660 feet and the northwest one acre of such northwest quarter.

(C) *Sanitary sewer utility connection fee.*

(1) A connection fee is imposed for each connection made to the municipal sanitary sewer utility within the boundary of a sewer connection fee district described in division (B) above or any other location in the city that has not had a previous connection fee charged.

(2) The connection fee for all city-constructed sanitary sewers, no matter where or when they were constructed shall be \$3,200. This fee shall include any lateral stub out costs incurred as part of the city-constructed sewer project.

(3) Property owners subject to the connection fees are not mandated to connect to the municipal sanitary sewer utility if they currently have a properly operating private treatment system. If a property owner's private treatment system fails as determined by guidelines previously established by the Director of Public Works/City Engineer, the property owner will then be required to connect to the municipal sanitary sewer utility. If a property owner does not choose to connect to the sewer mains constructed as part of the a project, the property owner is not required to pay a connection fee until such time as a connection is made.

(4) If a property owner is subject to the connection fee and desires to connect to a sewer main constructed as part of the project, the connection fee amount shall be paid entirely at the time a sewer connection permit is obtained from the city by the property owner, or the property owner may pay 25% of such connection fee and may sign a waiver for deferred payments of the remaining balance of such cost, to be paid in five annual installments, together with interest at a rate set by I.C.A. § 74A.4, computed to December 1 following with the September payment of general taxes, and such property owner shall consent in writing for the filing of such assessment cost with the County Auditor for collection as provided in this section.

(5) Property owners may elect to pay the connection fee at any time, although they do not desire to use the municipal sanitary sewer utility, until such time as their private system is deemed to have failed.

(6) The connection fee for property owners connecting to a developer-constructed sewer or previously constructed special assessment sewer shall be \$300, no matter where or when constructed.

(7) The property owner paying a connection fee will be responsible for the cost of providing the service line from the house to the public main or lateral stub out being constructed as part of the project.

(2013 Code, § 28-35) (Ord. 14731, passed 1-12-2004)

WATER POLLUTION CONTROL AND SANITARY SEWER SYSTEM

§ 52.020 DEFINITIONS.

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

BOD or BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

NATURAL OUTLET. Any watercourse, dry run, lake or any area that drains into any of such areas.

NH₃, NH₃-N (AMMONIA). The portion of nitrogen in the form of protein or intermediate decomposition products which is determined by standard laboratory procedures for analysis of ammonia nitrogen, expressed in milligrams per liter (mg/l).

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution and is a measurement of the intensity of the acidity or alkalinity of the solution.

PRIVY. Any area used for the act of human defecation and for the storage of the products of this act that is not connected to an approved method of disposal for the waste. This area may include the building housing such an area or may include only the ground around such an area.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and which public authority controls.

SANITARY SEWER. A sewer which carries wastes and to which storm waters, surface waters and ground waters are not intentionally admitted.

SLUG. Excessive concentration; 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 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM SEWER. A sewer that carries storm waters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Superintendent of the city water pollution control plant.

SUSPENDED SOLIDS (SS). 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.

USER. Any person, firm or company that discharges wastes of any kind into the city's sanitary sewer system.

(2013 Code, § 28-41) (Ord. 14531, passed 3-25-1996; Ord. 14870, passed 3-8-2010)

§ 52.021 RESPONSIBILITY FOR OPERATION OF WATER POLLUTION CONTROL PLANT.

The policies for the operation of the Water Pollution Control Plant (WPCP) shall be proposed by the Superintendent of the Water Pollution Control Plant and supervised by the Public Works Director/City Engineer.

(2013 Code, § 28-42) (Ord. 14531, passed 3-25-1996; Ord. 14870, passed 3-8-2010)

§ 52.022 DISCHARGE OF UNTREATED WASTES PROHIBITED.

(A) It shall be unlawful for any person or legal entity to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent divisions of this section.

(B) Except as provided in this division (B), it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(C) The owner of any house, building or property used for human habitation, human employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there may be located a public sanitary sewer is required at his or her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division (C), within 90 days after date of official notice to do so; provided that, the public sewer is within 100 feet (30.5 meters) of the property line. (2013 Code, § 28-43) (Ord. 14531, passed 3-25-1996) Penalty, see § 52.999

§ 52.023 PRIVATE DISPOSAL SYSTEMS ALLOWED.

(A) Where a public sanitary sewer is not available under the provisions of § 52.022 of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first comply with all building and engineering requirements.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sewer Department Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for a permit shall notify the city's Sewer Department when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the city's Sewer Department, except on weekends and holidays.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state's Department of Natural Resources. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet (1,740 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(F) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the city's Health Officer.

(G) A private disposal facility shall be connected to a public sewer within 90 days when, in the opinion of the Director of Public Works/City Engineer, the facility is not working properly due to unsatisfactory soil infiltration and requires renovation or replacement and he or she orders that it be connected to a public sewer, provided a public sewer is available within 100 feet of the property line.

(2013 Code, § 28-44) (Ord. 14531, passed 3-25-1996) Penalty, see § 52.999

§ 52.024 PRIVATE SEWER CONNECTIONS TO SANITARY SEWER SYSTEM.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works/City Engineer.

(B) The design of all sanitary sewers shall be in accordance with the city's standard plans and specifications or with the approval of the Director of Public Works/City Engineer. All sanitary sewers or building sewers shall be approved by the Director of Public Works/City Engineer for construction prior to work starting and inspected by city's Sewer Department prior to the sewer being covered.

(C) There shall be two classes of sewer users as follows:

(1) Residential and commercial service; and

(2) Service to establishments producing industrial wastes.

(D) In either case, the owner or his or her agent shall make application on a special form furnished by the city for a building sewer permit. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Director of Public Works/City Engineer and the Director.

(E) All costs and expenses incident to the installation, connection and repair 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.

(F) (1) A separate and independent building sewer shall be provided for every building.

(2) However, 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, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(G) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city's Sewer Department, to meet all requirements of this section.

(H) (1) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor.

(2) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(I) (1) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.

(2) This includes sump pumps designed to pump surface runoff or ground water.

(J) The applicant for the building sewer permit shall notify the city's Sewer Department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Sewer Department Superintendent.

(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(2013 Code, § 28-45) (Ord. 14531, passed 3-25-1996) Penalty, see § 52.999

§ 52.025 DISCHARGES INTO SANITARY SEWERS.

(A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, including interior and exterior foundation drains, industrial cooling water or unpolluted industrial process waters to any sanitary sewer.

(B) (1) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Director.

(2) Industrial cooling water or unpolluted process waters may be discharged on approval of the Director to a storm sewer or natural outlet.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solids or gas;

(2) Any slug of water 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 water pollution control plant;

(3) 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 at the water pollution control plant;

(4) 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 water pollution control plant, such as, but not limited to, ashes, cinders, sand,

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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 and the like, either whole or ground by garbage grinders;

(5) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not;

(6) 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 water pollution control plant exceeds the limits established by the Director for such materials;

(7) Any waters or wastes having a pH in excess of 11.0;

(8) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Director as necessary of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters; or

(9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with state or federal regulations.

(D) 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 Director, that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Director will give consideration to such factors as the quantities or 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 water pollution control plant, degree of treatability of wastes in the water pollution control plant and other pertinent factors. The substances prohibited are as follows:

(1) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F);

(2) Any garbage that has not been shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director; and

(3) Any waters or wastes constituting slugs, as defined in this subchapter, as follows:

(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 or sodium sulfate;

(b) Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions; and

(c) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the water pollution control plant.

(2013 Code, § 28-46) (Ord. 14531, passed 3-25-1996) Penalty, see § 52.999

§ 52.026 POWER OF CITY TO CONTROL WASTE DISCHARGES TO SANITARY SEWER SYSTEM.

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 § 52.025 of this chapter and which, in the judgment of the Director, may have a deleterious effect upon the water pollution control plant processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Director may:

- (A) Reject the wastes;
- (B) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (C) Require control over the quantities and rates of discharge; and/or
- (D) 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 § 52.030 of this chapter.

(2013 Code, § 28-47) (Ord. 14531, passed 3-25-1996)

§ 52.027 INSTALLATION OF SAMPLING AND METERING EQUIPMENT.

(A) The city may require an industrial user of the POTW to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that landscaping or parked vehicles will not obstruct it.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(D) Installation of any metering and sampling equipment by the owner must meet the approval of the Director.

(2013 Code, § 28-48) (Ord. 14531, passed 3-25-1996)

§ 52.028 DIRECTOR'S RIGHT OF ENTRY.

The Director shall have the power to and shall cause an inspection to be made from time to time of the premises of any and all factories, industries, garages, dwellings and other places of business and places that come under the jurisdiction of the city, the

sewage or wastes from which are or may be discharged deposited or find their way either directly or indirectly into the Iowa River or any other watercourse within the city's jurisdiction or into any sewer or the city sewer system, for the purpose of ascertaining whether any such factory, industry, garage or other place of business or the occupant or owner of any dwelling is complying with the terms and provisions of this subchapter or rules, regulations and requirements of the state's Department of Natural Resources and shall report from time to time to the City Council the results of such inspections. (2013 Code, § 28-49) (Ord. 14531, passed 3-25-1996)

§ 52.029 USER CHARGE SYSTEM.

(A) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTRIBUTOR. For the purpose of billing, the person or company responsible for the metering device used to bill user charges.

NORMAL DOMESTIC WASTEWATER. Wastewater that has BOD concentration of not more than 200 mg/l, a suspended solids concentration of not more than 200 mg/l and a total kjeldahl nitrogen (TKN) concentration of not more than 75 mg/l.

OPERATION AND MAINTENANCE. All expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.

PRETREATED WASTE. Pretreated wastewater requiring only secondary treatment and disinfection.

REPLACEMENT. Expenditures for obtaining and installing equipment, accessories or appurtenances that are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes **REPLACEMENT**.

RESIDENTIAL CONTRIBUTOR. Any contributor to the city's treatment works whose lot, parcel of real estate or building is used for domestic dwelling purposes only.

SHALL. The act referred to is mandatory; **MAY** is permissive.

TREATMENT WORKS. Any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be

an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, including land for composting sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land BOD application; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

USEFUL LIFE. The estimated period during which a treatment works will be operated.

USER CHARGE. The portion of the total wastewater service charge that is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

WATER METER. A water volume measuring and recording device, furnished and/or installed by the city, or furnished and/or installed by a user and approved by the city.

(C) The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works that the city may by ordinance designate to be paid by the user charge system. This section shall establish that portion of the user charge that is designated for operation and maintenance, including replacement of the treatment works.

(D) The portion of the total user charge collected which is designated for operation and maintenance including replacement purposes, as established in this section, shall be deposited in a separate non-lapsing fund known as the operation, maintenance and replacement fund and will be kept in two primary accounts as follows:

(1) An account designated for the specific purpose of defraying operation and maintenance costs, excluding replacement, of the treatment works (Operation and Maintenance Account); and

(2) An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works (Replacement Account). Deposits in the Replacement Account shall be made annually from the operation, maintenance and replacement revenue in the amount required by the capital improvement program.

(E) Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year and shall be used for no other purposes than those designated for these accounts. Moneys that have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rates shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

(F) Each user shall pay for the services provided by the city based on his or her use of the treatment works as determined by water meters acceptable to the city.

(G) For residential contributors, user charges will be based on water usage during a designated billing cycle as evidenced by meter readings. For industrial and commercial contributors, user charges shall be based on water used during a

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designated billing cycle. If a commercial or industrial contributor has consumptive use of water or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that contributor may be based on a wastewater meter or separate water meter installed and maintained at the contributor's expense and in a manner acceptable to the city.

(H) Effective with the first billing after January 1 of each year shown herein, each user shall pay the following user charge rates of:

	Rate
City contributors (except pretreated waste)	
Base charge per month per meter	\$23.75
Flow charge per 100 cubic feet	\$3.08
Pretreated wastes (requires only secondary treatment):	
Base charge per month per meter	\$2.97
Flow charge per 100 cubic feet	\$2.02

(I) (1) The base charge shall be charged on each meter being used to register wastewater flow.

(2) Effective with the first billing after January 12 of each year shown herein, a discharger of high strength waste greater than normal domestic (200 mg/l BOD, 200 mg/l SS and 75 mg/l TKN) shall pay the following charges:

(a) For each day the discharge permit is exceeded: \$1,000 and/or a single charge of \$1,000 for exceeding the monthly average limit;

(b) A sampling charge for each day the city performs wastewater sampling as spelled out in the user's discharge permit, shall be at the sample testing approved by resolution of the City Council; and

(c) For those contributors who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected. The surcharge for operation and maintenance, including replacement and debt is as follows:

	Rate
SS per pound	\$0.367
BOD per pound	\$0.60
TKN per pound	\$0.39

(J) Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the city's treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each user shall be as determined by the responsible plant operating personnel and approved by the City Council.

(K) The user charge rates established in this section apply to all users, regardless of their location, of the city's treatment works.

(L) Billing for surcharges will be done from laboratory tests performed by the city water pollution control plant. Procedures used for these tests will conform to those methods contained in 40 C.F.R. part 136 and amendments.

(M) The city shall review the system's revenues and expenditures every year and shall revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes. (2013 Code, § 28-50) (Ord. 14531, passed 3-25-1996; Ord. 14572, passed 6-23-1997; Ord. 14691, passed 4-22-2002; Ord. 14780, passed 4-24-2006; Ord. 14855, passed 4-13-2009; Ord. 14914, passed 12-10-2012; Ord. 14945, passed 3-14-2016)

§ 52.030 BILLING OF CHARGES, RATES AND RENTALS.

The bills to users for charges, rates or rentals established and maintained in this subchapter or as adjusted and maintained in this subchapter shall be due and payable and become delinquent at such times as shall coincide with the due and delinquent dates of water bills of the city's Waterworks Department. However, for users having privately-owned water supplies, the due and delinquent dates shall be at all times as shall be fixed by the Director. There shall be an additional charge made and added to bills in all cases, if bills are not paid when due, which shall be a penalty of 5% of the amount thereof. Each bill shall show the net charge, which shall be the amount computed on the basis established in this subchapter or as the charge may be adjusted, and which charge shall be applicable and the amount payable and collectible up to and including the due date. Each bill shall also show a gross charge that shall be the net charge, plus the 5% penalty, and the gross charge shall be applicable and be the amount payable and collectible after the due date. The billing and collection of sewer bills by the city waterworks shall be done in the same manner as handled for the collection of water bills, and as set forth by the waterworks.

(2013 Code, § 28-51) (Ord. 14531, passed 3-25-1996; Ord. 14914, passed 12-10-2012; Ord. 14945, passed 3-14-2016)

§ 52.031 LIEN FOR BILLS.

The sewage charges in this subchapter shall constitute a lien upon the premises served by the water pollution control plant. Quarterly, or more often if deemed appropriate, the Superintendent of the water pollution control plant may either furnish to the City Clerk, the city's Waterworks Department, or submit on his or her own, a list of all sewerage rental charges that have remained unpaid and delinquent for a period of 60 days prior to the end of that quarter, together with the name of the owner and the legal description of the property or premises for each separate bill, to be certified to the County Auditor for collection in the same manner as taxes, and when so collected the proceeds shall become a part of the Water Pollution Control Plant Rental Fund of the city.

(2013 Code, § 28-52) (Ord. 14531, passed 3-25-1996; Ord. 14870, passed 3-8-2010; Ord. 14914, passed 12-10-2012; Ord. 14945, passed 3-14-2016)

TRANSPORTED WASTES

§ 52.045 DEFINITIONS.

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

GREASE TRAP WASTES. Grease solids collected from a device used to trap grease resulting from food preparation.

INDUSTRIAL WASTE. The waste from industrial users.

MUDPIT WASTE. Any waste collected in a properly designed interceptor (clarifier) that handles wastes from private or public wash racks or floor slabs used for cleaning or drying of vehicles or machinery.

MUDPIT WASTE DISPOSAL AREA. The area set up and managed by the city for the storage and disposal of mudpit wastes.

PUBLICLY-OWNED TREATMENT WORKS (POTW). A treatment works as defined by § 212 of the Clean Water Act, owned by the city. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of wastewater or industrial wastes of a liquid nature or that convey wastewater to the wastewater treatment plant, regardless of ownership.

SEPTAGE WASTE. Human excreta, water, scum, septage and food waste from public and private wastewater disposal systems or holding tanks, impervious vaults, portable or chemical toilets.

SUPERINTENDENT. The Superintendent of the city water pollution control plant or his or her authorized representatives.

WASTE. In general, any or all of grease trap waste, mudpit waste or septage waste.

WASTE HAULER. A person or firm engaged in the business of cleaning or disposing of waste from public or private waste facilities, including a person or firm that owns and rents or leases portable toilets.

WASTEWATER TREATMENT PLANT. The portion of the POTW that is designed to provide treatment, including recycling and reclamation, of wastewater and industrial wastes.

(2013 Code, § 28-61) (Ord. 14461, passed 5-23-1994; Ord. 14870, passed 3-8-2010)

§ 52.046 WASTE HAULER LICENSE.

No waste hauler shall collect wastes from within the corporate limits of the city or shall dump or dispose of wastes, whether from a source inside or outside the corporate

limits of the city, into the city POTW or mudpit waste disposal area without first obtaining a waste hauler's license from the city.

(A) *Issuance criteria; minimum requirements.* The waste hauler's license shall be issued by the City Clerk upon approval by the Wastewater Treatment Plant Director after review of a written application, which shall consist of the following minimum requirements.

(1) *Application form.* An application form developed and furnished by the Director shall be completed and submitted by the waste hauler for each vehicle to be licensed.

(2) *Inspection.* The wastewater treatment plant, upon application, should inspect the waste hauling vehicle and associated equipment and determine if it meets the minimum qualifications for complying with the conditions of this subchapter. Vehicles with a rated capacity in excess of 2,500 gallons will be approved only upon special authorization of the Director.

(3) *License fee.* An application for a waste hauler's license shall require the payment of a fee of \$50 for each vehicle used by the applicant.

(4) *Bond.* A bond of \$10,000 shall be posted in cash or by a bonding company authorized to do business in the state and shall be conditioned upon lawful performance by the licensee with the city ordinances and the rules and regulations of the water pollution control plant Superintendent and shall be subject to liability of any licensee for damage to the POTW or mudpit waste disposal area by discharging waste of a nature that is hazardous to the POTW or sludge, river or mudpit waste disposal area.

(5) The waste hauler shall submit a certificate or insurance with the application as proof of coverage, pursuant to § 10.009 of this code of ordinances.

(B) *Renewal.* A waste hauler's license shall expire pursuant to § 10.009 of this code next after its issuance. Renewal applications must be made in the same manner as the initial application and must be received at the water pollution control plant 14 days prior to expiration. Failure to apply 14 days prior to expiration may result in an interruption in the license and the privileges of such license.

(C) *Transferability of license.* A waste hauler's license is not transferable. Waste haulers shall inform the water pollution control plant when vehicle ownership is transferred.

(2013 Code, § 28-62) (Ord. 14461, passed 5-23-1994; Ord. 14870, passed 3-8-2010)

§ 52.047 WASTE HAULER LICENSE DENIAL, SUSPENSION AND REVOCATION.

(A) The city may suspend, revoke or deny a waste hauler's license for any of the following reasons:

- (1) A material misstatement of facts in a license application or submission of an incomplete application;
- (2) Failure to pay fees or costs as allowed by this code;
- (3) Violation of the rules governing waste haulers;
- (4) An inspection shows deficiencies in equipment; and

(5) The waste hauler's license has been suspended by the city due to non-compliance with the provisions of this subchapter.

(B) No revocation shall be issued, except upon notice delivered to the licensee by mailing the notice through the regular mail addressed to the licensee at the address listed on the license application a minimum of ten days prior to the date set for the hearing before the City Administrator. Such notice shall inform the licensee of the time, date and place of the hearing; the purpose of the hearing; and shall set out the reasons therefor. However, if a violation of this subchapter is of such nature that the violation is deemed to be an immediate hazard by the Director of the wastewater treatment plant, the Director shall be authorized to temporarily suspend the license until notice can be given and hearing held.

(C) If, after such hearing, the City Administrator makes a finding based on substantial evidence that a violation of this subchapter did in fact occur as alleged, and City Administrator may continue suspension of, suspend or revoke the license; the determination of whether to revoke such license shall be in the discretion of the City Administrator and shall be dependent upon the circumstances surrounding the violation and its severity.

(D) The decision of continued suspension, suspension or revocation made by the City Administrator may be appealed to the City Council. In order to appeal such decision, written notice of appeal must be filed with the City Clerk within three days after receipt of the decision. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the decision of continued suspension or revocation of the City Administrator.

(E) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled at the next regular Council meeting, if such notice is received by 5:00 p.m. on the Wednesday before the next regular Council meeting. If notice is not received by such designated time, the hearing will be scheduled for the next following Council meeting. The hearing may be continued for good cause. The hearing shall be confined to the record made before the City Administrator and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing, the City Council may affirm or reverse the order of the City Administrator. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing or any continued session thereof.

(F) If the City Council affirms the action of the City Administrator continuing the suspension or revocation, the City Council shall so state and order in its written decision.

(G) A licensee whose license has been revoked shall not be eligible for another waste hauler's license for a period of two years.

(2013 Code, § 28-63) (Ord. 14461, passed 5-23-1994)

§ 52.048 STANDARDS FOR VEHICLE AND EQUIPMENT.

For all vehicles and equipment used by waste haulers, the licensee shall:

- (A) Prevent waste and wastewater from leaking, spilling or discharging onto roads or rights-of-way;
 - (B) Ensure proper construction and repair of the equipment to allow cleaning;
 - (C) Maintain vehicles and equipment in an essentially rust free and sanitary condition and appearance; and
 - (D) Display the business name as it appears on the waste hauler's license in three-inch or larger letters on the left and right sides of the vehicle.
- (2013 Code, § 28-64) (Ord. 14461, passed 5-23-1994)

§ 52.049 DISPOSAL; STANDARDS.

(A) *General.* Waste haulers shall dispose of hauled wastes permitted by this subchapter according to rules for land application as found in state law or at a location designated by the Director. Waste haulers may also dispose of hauled wastes at municipal wastewater treatment plants outside the city where such wastes are accepted. Hours for disposal at the city facilities shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, except as pre-approved with the Director. Waste haulers shall maintain the designated disposal location in a clean and orderly condition to avoid noxious odors and unsanitary conditions.

(2013 Code, § 28-65)

(B) *Standards for disposal.*

(1) Under this subchapter, disposal of wastes to the POTW or mudpit waste disposal area shall be carried out in accordance with all federal, state and local laws, including the city's Industrial Pretreatment Ordinance. The Director may reject wastes from any waste hauler who does not comply with this section or with any section of this subchapter.

(2) Waste haulers shall deliver wastes in accordance with the following.

(a) No industrial/commercial waste other than grease trap waste shall be delivered to the POTW unless it can be shown that the waste is only domestic septage or mudpit waste.

(b) No hazardous wastes, as defined in 40 C.F.R. part 261 or I.C.A. Ch. 455B, shall be delivered.

(c) Mudpit wastes shall be delivered to the mudpit waste storage area in accordance with the mudpit waste disposal program.

(d) No mudpit wastes shall be delivered to the mudpit waste storage area that would cause the city to be in non-compliance with the state's rules on petroleum-contaminated soils.

(e) Domestic septage and grease trap wastes shall be delivered to the POTW in accordance with the septage and grease trap waste disposal program.

(f) No wastes shall be delivered from an animal confinement facility.

(g) No wastes shall be delivered from a vehicle also used to transport hazardous or toxic wastes detrimental to the POTW or mudpit waste disposal area.

(2013 Code, § 28-66)

(Ord. 14461, passed 5-23-1994) Penalty, see § 52.999

§ 52.050 DISCHARGE PROHIBITIONS.

(A) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance or pass through of the POTW.

(B) In addition, the following pollutants shall not be introduced into the POTW:

(1) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than 5%, nor any single reading over 10%, of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and in no case pollutants with a flashpoint of less than 140°F (60°C);

(2) Solid or viscous substances which may cause interference with the operation of the wastewater treatment facilities such as, but not limited to, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, diapers, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes. Discharge of petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through is prohibited;

(3) Any wastewater having a pH less than 5.5 or greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process or to constitute a hazard to humans or animals;

(5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life;

(6) Any substance that may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act being 33 U.S.C. § 1345; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act being 42 U.S.C. §§ 6901 et seq., the Clean Air Act being 42 U.S.C. §§ 7401 et seq., the Toxic Substances

Control Act being 15 U.S.C. §§ 2601 et seq., or state criteria applicable to the sludge management method being used;

(7) Any substance that will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F);

(10) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process or which will constitute a hazard to humans;

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations;

(12) Any wastewater that causes a hazard to human life or creates a public nuisance;

(13) Any wastewater containing any medical or infectious wastes;

(14) Any trucked or handled pollutants, except at discharge points designated by the POTW Director in accordance with this subchapter; and/or

(15) Any wastewater causing the treatment plant's effluent to fail a toxicity test.

(2013 Code, § 28-67) (Ord. 14461, passed 5-23-1994)

§ 52.051 DISPOSAL FEE.

When wastes are disposed of at the city treatment facilities, a treatment and disposal fee shall be set per unit of volume of hauled waste. This fee shall be equal to the cost of treatment and disposal.

(A) *Septage waste.*

(1) The fee shall be a minimum charge of \$0.118 per gallon will be placed on all septage wastes collected.

(2) All rates are based on and charged for a full truckload of waste, unless the collection vehicle has a calibrated electronic volume meter approved by the city's Water Pollution Control Department. Vehicles with an electronic volume meter shall either be charged by the gallon shown on the meter, plus a \$10 meter reading fee per load or a full tank load volume fee.

(B) *Grease trap wastes.*

(1) The fee shall be a minimum charge of \$0.135 per gallon will be placed on all grease trap wastes collected from within the city and two times the rate or \$0.270 per gallon for disposal and treatment of grease trap wastes collected outside the city.

(2) All rates are based on and charged for a full truckload of waste, unless the collection vehicle has a calibrated electronic volume meter approved by the city's Water Pollution Control Department. Vehicles with an electronic volume meter shall either be charged by the gallon shown on the meter, plus a \$10 meter reading fee per load or a full tank load volume fee.

(2) If grease trap waste is co-mingled with septage, the full load or metered load will be charged at the higher rate for grease trap waste.

(C) *Mudpit facility registration.* Any owner of a mudpit wishing to dispose of the mudpit waste at the city mudpit waste disposal facility shall pay a registration fee of \$100 per calendar year and shall provide cleaning of the pit at least once per year.

(D) *Mudpit waste.* A minimum charge of \$50 per vehicle load will be placed on all mudpit wastes collected from within the city and an additional \$25 per cubic yard in excess of two yards per vehicle load. Mudpit wastes shall not be accepted from outside the city limits.

(E) *Other wastes.* The Water Pollution Control Plant Superintendant may accept other large volumes of trucked waste, if he or she feels the treatment plant can handle the waste loading. The charge for such waste would be twice the current rate charged per this chapter or as set by Council resolution, but at no time less than \$0.03 per gallon. The trucked waste discharger is responsible for all costs associated with the sampling and testing of the waste as required by the Director.

(2013 Code, § 28-68) (Ord. 14461, passed 5-23-1994; Ord. 14564, passed 4-14-1997; Ord. 14690, passed 4-22-2002; Ord. 14852, passed 2-9-2009; Ord. 14870, passed 3-8-2010)

NON-RESIDENTIAL TREATMENT REGULATIONS

§ 52.065 PURPOSE AND POLICY.

(A) This subchapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws including the Clean Water Act and the General Pretreatment Regulations, 40 C.F.R. part 403.

(B) The objectives of this subchapter are to:

(1) Prevent the introduction of pollutants into the city's wastewater system that will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) Provide for equitable distribution of the cost of the municipal wastewater system.

(C) This subchapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this subchapter.

(D) This subchapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the POTW. Except as otherwise provided in this subchapter, the Director of the city's POTW shall administer, implement and enforce the provisions of this subchapter.

(2013 Code, § 28-76) (Ord. 14438, passed 8-23-1993)

§ 52.066 DEFINITIONS AND ABBREVIATIONS.

(A) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or **THE ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. §§ 1251 et seq., as amended.

APPROVAL AUTHORITY. The Director of the Department of Natural Resources, who is the pretreatment program approval authority.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(a) As follows:

1. If the industrial user is a corporation:
 - a. The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy- or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the industrial user is a partnership or sole proprietorship, a general partner or proprietor, respectively; and
3. If the industrial user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee.

(b) The individuals described in divisions (a)1. and (a)2. above may designate another **AUTHORIZED REPRESENTATIVE** if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the city.

AUTHORIZED SIGNOR OF DOCUMENTATION OF COMPLIANCE.

Any individual authorized to sign documentation of compliance must have the ability to authorize funds and personnel as needed to ensure compliance with pretreatment standards.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20°C expressed in terms of weight and concentration (milligrams per liter (mg/l)).

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

CATEGORICAL STANDARDS. National categorical pretreatment standards or pretreatment standards.

CITY. The City of Marshalltown or the City Council of Marshalltown.

COOLING WATER. The water discharged from any use, such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

CONTROL AUTHORITY. The Director of the POTW.

DIRECT DISCHARGE. The discharge of treated or untreated wastewater directly to the waters of the state.

DIRECTOR. The person designated by the city to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by this subchapter, or his or her duly authorized representative.

ENVIRONMENTAL PROTECTION AGENCY or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of such agency.

GRAB SAMPLE. A sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

INDIRECT DISCHARGE. The discharge or the introduction of non-domestic pollutants from any source regulated under § 307(b) or (c) of the Act (33 U.S.C. § 1317) into the POTW, including holding tank waste discharged into the system.

INDUSTRIAL USER (I.U.). A source of non-domestic waste; any non-domestic source discharging pollutants to a POTW.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge from other sources: inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and, therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under or more stringent state or local regulations: § 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT or **NPDES PERMIT**. A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD or **STANDARD**. Any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with § 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to § 403.5 of the Act.

NEW SOURCE.

(a) As follows:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a **NEW SOURCE** if the construction does not create a new building, structure, facility or installation meeting the criteria of divisions (a)1.a. or (a)1.b. above, but otherwise alters, replaces or adds to existing process or production equipment.

(b) Construction of a **NEW SOURCE** has commenced if the owner or operator has begun or caused to begin as part of a continuous on-site construction program:

1. Any placement, assembly or installation of facilities or equipment;

2. Significant site preparation work including cleaning, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

3. Entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a

discharge from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine. The singular shall include the plural where indicated by the context.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution and is a measurement of the intensity of the acidity or alkalinity of the solution.

POLLUTANT. Any dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal and agricultural waste discharged into water.

POLLUTION. The human-made or human-induced alteration of the chemical, physical, biological and radiological integrity of water.

POTW TREATMENT PLANT. The portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes by other means, except as prohibited by 40 C.F.R. § 403.6(d).

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

PUBLICLY-OWNED TREATMENT WORKS (POTW). A treatment works as defined by § 212 of the Act (33 U.S.C. § 1292) that is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this subchapter, the acronym **POTW** shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

SHALL. The act referred to is mandatory; **MAY** is permissive.

SIGNIFICANT INDUSTRIAL USER or MAJOR CONTRIBUTING

INDUSTRIES.

- (a) Applies to the following:
1. Industrial users subject to categorical pretreatment standards; and
 2. Any other industrial user that:
 - a. Discharges an average of 25,000 gpd or more of process wastewater;

b. Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

c. Is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(b) The control authority may decide to remove any non-categorical industrial user from the list of **SIGNIFICANT INDUSTRIAL USERS** if the industrial facility has no reasonable potential to violate any pretreatment standards (general and specific prohibitions or local limits). The approval authority may choose to review deletions and/or require additional facilities to be listed.

(c) The control authority may reduce oversight of certain industrial users that may be reclassified as nonsignificant categorical industrial users (NCSIUs) (40 C.F.R. §§ 403.3(v)(2), 403.8(f)(2)(v) and 403.12(e)(3)(i)). Previously, all IUs falling under a federal-listed category were designated as categorical industrial users (CIUs), no matter the size of the operations. The amendment creates two additional classifications for CIUs:

1. Non-significant CIU: CIUs that consistently comply with applicable pretreatment standards consistently discharge less than 100 gpd of categorical wastewater, and never discharge any untreated concentrated wastewater may be classified as non-significant CIU. This classification reduces the monitoring requirements for an industry and does not require that the facility have a pretreatment permit. However, they must continue to comply with applicable pretreatment standards and requirements and provide annual certification of compliance.

2. Middle tier CIU: CIUs which are: <0.01% of POTW's design dry weather hydraulic capacity or 5,000 gpd, whichever is smaller (measured by continuous effluent flow monitoring) unless the CIU is a batch discharger; 0.015 of POTW's design dry weather treatment capacity; and <0.01% of the maximum allowable headworks loading (MAIL) for any local limits. To be eligible for classification as a middle tier CIU, the CIU must not have been in SNC for any time in the previous two years and the daily flow rates, production levels, or pollutant levels cannot vary significantly whereby reduced reporting would not be representative of operating conditions. Adoption of these classifications allows for reduced monitoring and regulatory burden for CIUs with very low flows and potential to impact the POTW.

SIGNIFICANT NON-COMPLIANCE.

(a) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 C.F.R. § 403.3(1);

(b) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 C.F.R. § 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by 40 C.F.R. § 403.3(1) (daily maximum, long-term average, instantaneous limit or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority hereunder to halt or prevent such a discharge;

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

(f) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(g) Failure to accurately report non-compliance; and

(h) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG LOAD. Any pollutant, including BOD, released in a discharge at a flow rate or concentration sufficient to cause a violation of the specific discharge prohibitions in 40 C.F.R. §§ 403.5(b) to 403.12(f).

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering.

TOXIC POLLUTANT. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA § 307(a) or other acts.

USER. Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

WASTEWATER CONTRIBUTION PERMIT. As set forth in § 52.076 of this chapter.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(B) **Abbreviations.** The following abbreviations shall have the designated meanings.

BOD. Biochemical oxygen demand.

C.F.R. Code of Federal Regulations.

COD. Chemical oxygen demand.

EPA. Environmental Protection Agency.

l. Liter.

Mg. Milligrams.

mg/l. Milligrams per liter.

NPDES. National Pollutant Discharge Elimination System.

POTW. Publicly-owned treatment works.

SIC. Standard industrial classification.

SWDA. Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.

U.S.C. United States Code.

TSS. Total suspended solids.

(2013 Code, § 28-77) (Ord. 14438, passed 8-23-1993; Ord. 14899, passed 4-9-2012; Ord. 14969, passed 9-25-2017)

§ 52.067 GENERAL DISCHARGE PROHIBITIONS.

(A) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance or pass through of the POTW. The general prohibitions and specific prohibitions listed in this subchapter apply to all such users or a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standard or requirements. Each industrial user is required to notify the Director of any planned significant changes to the industrial user's operations or system that might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(B) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 52.076(B) of this chapter.

(C) The Director may issue a wastewater discharge permit under § 52.076 of this chapter or modify an existing wastewater discharge permit under § 52.076(C) of this chapter.

(D) No industrial user shall implement the planned changes until and unless the Director has responded to the industrial user's notice.

(E) For purposes of this section, flow increases of 10% or greater and the discharge of any previously unreported pollutants shall be deemed significant.

(2013 Code, § 28-78) (Ord. 14438, passed 8-23-1993)

§ 52.068 SPECIFIC PROHIBITIONS.

(A) In addition to the general discharge prohibitions in § 52.067 of this chapter, the following pollutants shall not be introduced into the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation

of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any portion in the system, be more than 5% or any single reading over 10% of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and in no case pollutants with a flashpoint of less than 140°F (60°C);

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, diapers, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes. Discharge of petroleum oil, non- biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through is prohibited;

(3) Any wastewater having a pH less than 5.5 or greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals or create the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to § 307(a) of the Act;

(5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(6) Any substance that may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non- compliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Wastes Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used;

(7) Any substance that will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards;

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference but in no case wastewater with a temperature which will cause the treatment plant headworks wastewater temperature to exceed 40°C (104°F);

(10) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process or which will constitute a hazard to humans or animals;

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations;

(12) Any wastewater that causes a hazard to human life or creates a public nuisance;

(13) Any wastewater containing any medical or infectious wastes;

(14) Any trucked or handled pollutants, except at discharge points designated by the POTW Director in accordance with the city's Trucked Waste Ordinance; or

(15) Any wastewater causing the treatment plant's effluent to fail a toxicity test.

(B) When the Director determines that a user is contributing to the POTW any of the substances enumerated in division (A) above in such amounts as to interfere with the operation of the POTW, the Director shall:

(1) Advise the user of the impact of the contribution on the POTW; and

(2) Develop effluent limitations for such user to correct the interference with the POTW.

(2013 Code, § 28-79) (Ord. 14438, passed 8-23-1993; Ord. 14446, passed 11-8-1993)

§ 52.069 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

The national categorical pretreatment standards found in 40 C.F.R. Ch. I, Subch. N, parts 405 through 471, are incorporated into this subchapter by reference. Upon the promulgation of new federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter for sources in that subcategory, shall immediately supersede the limitations imposed under this subchapter. The Director shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.

(2013 Code, § 28-80) (Ord. 14438, passed 8-23-1993)

§ 52.070 STATE REQUIREMENTS.

State requirements and limitations on dischargers shall apply in any case where they are more stringent than federal requirements and limitations or those in this subchapter.

(2013 Code, § 28-81) (Ord. 14438, passed 8-23-1993)

§ 52.071 CITY'S RIGHTS OF REVISION.

The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 52.065 of this chapter.

(2013 Code, § 28-82) (Ord. 14438, passed 8-23-1993)

§ 52.072 EXCESSIVE DISCHARGE.

Under this subchapter, no user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the city or state. (Comment: this dilution is an acceptable means of complying with the pH prohibition.)

(2013 Code, § 28-83) (Ord. 14438, passed 8-23-1993) Penalty, see § 52.999

§ 52.073 ACCIDENTAL DISCHARGES (SLUG LOADS); PLANS.

(A) (1) *Generally.* Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this subchapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility and each user shall verify the status of the slug control plan for any renewal cycle. No user who commences contribution to the POTW after the effective date of the ordinance from which this subchapter derives shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this subchapter. If an accidental discharge (slug load) occurs, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, the type of waste, the concentration and volume and corrective actions.

(2) *Written notice.* Within five days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. No such notification shall relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property, nor shall such notification relieve the use of any fines, civil penalties or other liability which may be imposed by this subchapter or other applicable law.

(3) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call if a slug or accidental discharge occurs. Employers shall ensure that all employees who may

cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(2013 Code, § 28-84)

(B) For the purpose of this subchapter, the Director may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the Director shall evaluate whether each significant industrial user needs a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan that addresses, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge that would violate any of the prohibited discharges in § 52.067 of this chapter;
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents and/or measures and equipment for emergency response
- (5) Industrial users are required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge.

(2013 Code, § 28-85)

(Ord. 14438, passed 8-23-1993; Ord. 14969, passed 9-25-2017) Penalty, see § 52.999

§ 52.074 FEES.

(A) *Purpose.* It is the purpose of this subchapter to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established in this subchapter. The applicable charges or fees shall be set forth by resolution in the city's schedule of charges and fees.

(B) *Adoption.*

- (1) The city may adopt charges and fees that may include the following:
 - (a) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
 - (b) Fees for monitoring, inspections and surveillance procedures;
 - (c) Fees for reviewing accidental discharge procedures and construction;
 - (d) Fees for permit applications;
 - (e) Fees for filing appeals;

(f) Fees for consistent removal by the city of pollutants otherwise subject to federal pretreatment standards; and

(g) Other fees as the city may deem necessary to carry out the requirements contained in this subchapter.

(2) The fees relate solely to the matters covered by this subchapter and are separate from all other fees chargeable by the city.

(C) *City's scheduling of charges and fees.*

(1) The cost of setting up and operating the city's pretreatment program shall be absorbed in the administrative costs of the operation of the POTW.

(2) Fees for monitoring, sample equipment, sample handling and laboratory testing are set by Council resolution and are reviewed periodically to ensure the fee covers the cost of performing the work.

(3) A wastewater discharge permit application fee shall be assessed each wastewater discharge permit holder, as well as a renewal fee as set by Council resolution. An additional fee shall be assessed in the amount of \$50 per month past the time due as required by this subchapter.

(4) An appeal filing fee shall be assessed in the amount of \$100.
(2013 Code, § 28-86) (Ord. 14438, passed 8-23-1993)

§ 52.075 WASTEWATER DISCHARGER PERMITS.

It shall be unlawful to discharge without a city permit and/or Department of Natural Resource permit to any natural outlet within the city or in any area under the jurisdiction of the city and/or to the POTW any wastewater, except as authorized by the Director in accordance with the provisions of this subchapter.

(2013 Code, § 28-87) (Ord. 14438, passed 8-23-1993) Penalty, see § 52.999

§ 52.076 WASTEWATER CONTRIBUTION PERMITS.

(A) *General permits.* All significant users or major contributors proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall maintain their existing wastewater contribution permits.

(B) *Permit application.*

(1) Users required to obtain a wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city and accompanied by the permit application fee. Proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. Each existing user shall submit an application for a permit renewal 90 days prior to the expiration date of the current permit. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address and location, if different from the address;

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(b) SIC number according to the *Standard Industrial Classification Manual*, Office of Management and Budget, 1972, as amended;

(c) Wastewater constituents and characteristics, including, but not limited to, those mentioned in §§ 52.067 through 52.073 of this chapter as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to § 304(g) of the Act and contained in 40 C.F.R. part 135, as amended;

(d) Time and duration of the contribution;

(e) Average daily and 15-minute peak wastewater flow rates, including daily, monthly and seasonally variations, if any;

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(g) Description of activities, facilities and plant processes on the premises including all materials that are or could be discharged; and

(h) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

(2) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment shall be established. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. (See § 52.077 of this chapter.) The following conditions shall apply to this schedule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction and the like);

(b) No increment referred to in division (B)(2)(a) above shall exceed nine months, nor shall the total compliance period exceed 18 months;

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Director;

(d) Each product produced by type, amount, process and rate of production;

(e) Type and amount of raw materials processed, average and maximum per day;

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(f) Number and type of employees and hours of operation of the plant and proposed or actual hours of operation of the pretreatment system; and

(g) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

(3) All plans required in this division (B) must be certified for accuracy by a state-registered professional engineer.

(4) The city will evaluate the data furnished by the user and any required additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided in this subchapter.

(C) *Permit modification.*

(1) This permit may be modified for good cause, including, but not limited to, the following:

(a) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(b) Material or substantial alterations or additions to the discharger's operation processes or discharge volume or character which were not considered in drafting the effective permit;

(c) A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the control authority's collection and treatment systems, POTW personnel or the receiving waters;

(e) Violation of any terms or conditions of the permit;

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

(g) To correct typographical or other errors in the permit;

(h) To reflect transfer of the facility ownership and/or operation to a new owner/operator; and

(i) Upon request of the permittee; provided, such request does not create a violation of any applicable requirements, standards, laws or rules and regulations.

(2) Under promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by division (B) above, the user shall apply for a wastewater contribution permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the Director, within 90 days after the promulgation of an applicable federal categorical pretreatment standard, the information required hereby.

(D) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this subchapter and all other applicable regulations, user

charges and fees established by the city. Permits may contain the following as determined by the Director:

- (1) Limits on the average and maximum wastewater constituents and characteristics;
- (2) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (3) Requirements for installation and maintenance of inspection and sampling facilities;
- (4) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (5) Compliance schedules;
- (6) Requirements for submission of technical reports or discharge reports (see § 52.077 of this chapter) and including monthly monitoring reports;
- (7) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto. Industrial users must keep records of monitoring activities and results for a minimum of three years. This period shall be automatically extended for the duration of any litigation concerning compliance with this subchapter or where the industrial user has been specifically notified of a longer retention period by the Director and/or approval authority;
- (8) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (9) Requirements for notification of slug discharges as per § 52.073(A) of this chapter; and
- (10) Other conditions as deemed appropriate by the city to ensure compliance with this subchapter.

(E) *Permit duration.* Permits shall be issued for a specified time period, not to exceed three years. A permit may be issued for a period less than a year or may be stated to expire on a specific day. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements, as identified in §§ 52.067 through 52.073 of this chapter, are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(F) *Permit transfer.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(G) *Report of changed conditions.*

(1) Each industrial user is required to notify the Director of any planned significant changes to the industrial user's operations or system that might alter the

nature, quality or volume of its wastewater at least 30 days before the change in accordance with the following.

(a) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under division (B) above.

(b) The Director may issue a wastewater discharge permit under division (A) above or modify an existing wastewater discharge permit under division (C) above.

(2) No industrial user shall implement the planned changed conditions until and unless the Director has responded to the industrial user's notice.

(3) For purposes of this division (G), flow increases of 10% or greater and the discharge of any previously unreported pollutants shall be deemed significant. (2013 Code, § 28-88) (Ord. 14438, passed 8-23-1993)

§ 52.077 REPORTING REQUIREMENTS FOR PERMITTEE.

(A) General pretreatment regulations at 40 C.F.R. § 403.12 set forth five basic reporting requirements that apply to industrial users subject to specific categorical pretreatment standards. Categorical industrial users must comply with these federal reporting requirements, even if the control authority has determined that the local limit requirement is more stringent than the categorical standard. These requirements are as follows.

(1) *Baseline monitoring report (40 C.F.R. § 403.12(b)).* A baseline monitoring report is required, including a compliance schedule, when necessary, for meeting categorical standards (40 C.F.R. § 403.12(c)). Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the Director a report which contains the information listed in 40 C.F.R. § 403.12(b)1-7. At least 90 days prior to commencement of their discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the Director a report which contains the information listed in 40 C.F.R. § 403.12(b)1-7. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) *Report on compliance with categorical pretreatment standard deadline (40 C.F.R. § 403.12(d)).* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility, which are limited by

such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified by a qualified professional.

(3) *Compliance schedule for meeting categorical pretreatment standards.* (See § 52.076 of this chapter.) The Director may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by division (A)(1) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standards.

(4) *Periodic report on continued compliance (40 C.F.R. § 403.12(e)).* Categorical and non- categorical industrial users are required to report on their regulated waste discharges to the control authority at least semiannually. The regulations (40 C.F.R. § 403.12(e)(1)) state that the reports are to contain information indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. For some categorical TTO standards, the categorical regulation provides for the use of a certification as a substitute for sampling and analysis results. In addition, this report shall include a record of measured or estimated average daily flows for the reporting period. If the city performs all of the monitoring and sampling requirements of the industrial user's permit every six months, the city will send all permitted industrial users a standard six-month compliance form for the industrial user to certify compliance.

(5) *Signatory requirements.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine for knowing violations."

(6) *Notice of slug loading (40 C.F.R. § 403.12(f)).* (See § 52.073(A) of this chapter.) All industrial users must notify the control authority immediately of any slug loading. **SLUG LOADING** is defined as any pollutant, including biochemical oxygen demand (BOD), released in a discharge at a flow rate or concentration which will cause interference with the operation of the treatment works.

(7) *Notification of discharge of hazardous waste.* Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the

Environmental Protection Agency Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, the Environmental Protection Agency hazardous waste number, and the type of discharge (continuous batch or other). If the industrial user discharges more than ten kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes; an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division (A)(7) need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under § 52.076 of this chapter. The notification requirement in this division (A)(7) does not apply to pollutants already reported under the self-monitoring requirements.

(B) (1) Dischargers are exempt from the requirements of division (A) above during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(2) If any new regulations under § 3001 of RCRA identify additional characteristics of hazardous waste or list any additional substance as a hazardous waste, the industrial user must notify the POTW, the Environmental Protection Agency Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations. For any notification made under this division (B), the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(2013 Code, § 28-89) (Ord. 14438, passed 8-23-1993; Ord. 14970, passed 11-27-2017)

§ 52.078 ANALYSES.

All analyses required under this subchapter shall be performed in accordance with procedures established by the Administrator pursuant to § 304(g) of the Act and contained in 40 C.F.R. part 136 and amendments. Where 40 C.F.R. part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the Environmental Protection Agency publication, *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, April 1977, and amendments

thereto, or with any other sampling and analytical procedures approved by the Administrator.

(2013 Code, § 28-90) (Ord. 14438, passed 8-23-1993)

§ 52.079 MONITORING FACILITIES.

(A) The city may require an industrial user of the POTW to provide and operate, at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that landscaping or parked vehicles will not obstruct it.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(2013 Code, § 28-91) (Ord. 14438, passed 8-23-1993)

§ 52.080 INSPECTION AND SAMPLING.

(A) The city shall inspect the facilities of any user to ascertain whether the purpose of this subchapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination/copying or in the performance of any of their duties. The city, approval authority and Environmental Protection Agency shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and Environmental Protection Agency will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Sampling of an industrial user's wastewater shall be required at least semiannually (once every six months). The POTW may choose to monitor in lieu of requiring the industrial user to perform the self-monitoring. If sampling conducted by the industrial user indicates a violation, the user must repeat the sampling and submit analytical results within 30 days after becoming aware of the violation. If the industrial user performed the initial sampling, the user must notify the POTW within 24 hours of

becoming aware of the violation in addition to performing the follow-up sampling and analysis. Industrial users that are identified as “significant” are required to report all monitoring results to the POTW.

(B) In cases of violation where the POTW has assumed responsibility for sampling in lieu of the industrial user, the POTW must repeat the sampling and analysis. An exception of that requirement is made if the POTW performs the sampling at the facility at a frequency of at least once a month or if the POTW performs sampling at the industrial user between the time of the initial sampling and the receipt of the results of that sampling.

(C) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composited sampling techniques, unless the POTW authorized time-proportional composite sampling or grab sampling. Where the POTW authorizes time-proportional composite sampling or grab sampling, the samples must be representative of the discharge, and the justification for the decision to allow the alternative sampling must be documented in the IU’s file for that facility or facilities. When grab samples are determined to be applicable for representative sampling under certain circumstances, the POTW shall determine and document the number of grab samples necessary to assess and assure compliance with applicable limits.

(2013 Code, § 28-92) (Ord. 14438, passed 8-23-1993; Ord. 14969, passed 9-25-2017)

§ 52.081 PRETREATMENT.

Users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user’s expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user’s initiation of the changes.

(2013 Code, § 28-93) (Ord. 14438, passed 8-23-1993)

§ 52.082 RECORDKEEPING.

Industrial users shall retain and make available for inspection and copying all records and information required to be retained under this subchapter. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning compliance with this

subchapter or where the industrial user has been specifically notified of a longer retention period by the Director and/or approval authority.
(2013 Code, § 28-94) (Ord. 14438, passed 8-23-1993)

§ 52.083 PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NON-COMPLIANCE.

The city shall publish annually, in the largest daily newspaper published in the city, a list of the industrial users which, during the previous 12 months, were in significant non-compliance with any standard or requirement of this subchapter. (See § 52.066 of this chapter, defining the term “significant non-compliance”.)
(2013 Code, § 28-95) (Ord. 14438, passed 8-23-1993)

§ 52.084 CONFIDENTIAL INFORMATION.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from city inspection and sampling activities pursuant to this subchapter shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of the report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 C.F.R. § 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(2013 Code, § 28-96) (Ord. 14438, passed 8-23-1993)

§ 52.085 ENFORCEMENT.

(A) *Emergency suspensions.*

(1) Under this subchapter, the Director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(2) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings set forth in division (B) below are initiated against the user.

(3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director, prior to the date of any show cause or termination hearing under divisions (B) and (D) below. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(B) *Revocation of permit.* Any user who violates the following conditions of this subchapter or applicable state and federal regulation is subject to having his or her permit revoked in accordance with the procedure of this section:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

(4) Violation of conditions of the permit;

(5) Supplying any false information or statement, representation or certification in any application, report, plan or other document filed or required to be maintained pursuant to this subchapter; or

(6) Violation of any of the provisions and/or requirements of this subchapter.

(C) *Notification of violation; compliance scheduling.*

(1) Whenever the city finds that any user has violated or is violating this subchapter, wastewater contribution permit or any prohibition, limitation or requirements contained in this subchapter, the water pollution control plant shall serve upon such person a written notice stating the nature of the violation. The notification shall require the industry to reply to the city in writing, within ten days of notification, the cause for the violation and the action the industry plans to take to achieve compliance. A notice of violation to an industry in significant non-compliance shall require the industry to submit a compliance schedule to the city within 30 days of notification. The Director may require a compliance schedule be required as part of the notice of violation if any single violation warrants immediate action. Whenever discharge permit renewals or reports are not submitted as required, a notice of violation shall be issued requiring submission within seven days of notification.

(2) Any industry found in significant non-compliance of its discharge permit or any single violation of an industrial permit or pretreatment ordinance provision deemed significant by the Director shall within 30 days of notification submit to the city a schedule of compliance to correct the violation. Any plan for corrective action submitted

after notification shall include a timetable for completion of the required tasks. The plan must be approved and accepted by the city and will represent an agreement which will allow any available enforcement procedure to apply. Any schedule of compliance that exceeds 60 days shall be submitted to the district courts for purposes of a court order approving the compliance schedule making it enforceable against each party thereto as a court order.

(D) *Show cause hearing.*

(1) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The City Council shall itself conduct the hearing and take the evidence.

(3) After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service will be discontinued. If the user certifies that proper modifications have been made to meet discharge requirements, the sewer disconnect order may be cancelled. Further orders and directives as are necessary and appropriate may be issued.

(E) *Legal action.* If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this subchapter, federal or state pretreatment requirements, or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief in the District Court of the county.

(2013 Code, § 28-97) (Ord. 14438, passed 8-23-1993)

§ 52.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person, firm or corporation violating the provisions of §§ 52.020 through 52.031 of this chapter shall, upon conviction, be liable for any damages done to the sanitary sewer system or the water pollution control plant and shall be punished by a civil penalty as provided in § 10.999(A) of this code of ordinances. Each day that a violation continues may be considered a separate violation.

(2013 Code, § 28-53)

(C) (1) Any person, firm or corporation who violates or resists the enforcement of any provision of §§ 52.045 through 52.051 of this chapter shall be guilty of a municipal infraction, punishable as provided in § 10.999(A) of this code of ordinances. Each violation constitutes a separate offense. Any person, firm or

corporation who violates a provision of §§ 52.045 through 52.051 of this chapter after previously being found guilty of violating the same provision of §§ 52.045 through 52.051 of this chapter at the same location or at a different location shall be guilty of a repeat offense.

(2) Seeking a civil penalty as authorized in this division (C) does not preclude the city from seeking alternative relief, including injunctive relief, suits for monetary damages or enforcement provisions under the city's Industrial Pretreatment Ordinance.

(2013 Code, § 28-69)

(D) (1) *Judicial enforcement remedies.*

(a) *Injunctive relief.* Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of §§ 52.065 through 52.085 of this chapter, wastewater discharge permits or orders issued under §§ 52.065 through 52.085 of this chapter or any other pretreatment requirement, the Director may petition the courts through the city's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by §§ 52.065 through 52.085 of this chapter on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(b) *Civil penalties.* Civil penalties, including municipal infractions pursuant to city ordinance (see I.C.A. § 364.22), may be imposed as follows.

1. Any industrial user who violates any pretreatment standard or requirement, as referred to in 40 C.F.R. § 403.8, may be punished by a civil penalty of not more than \$1,000 for each day a violation exists or continues.

2. Any user who commits any environmental violation of I.C.A. Ch. 455B or a violation of a standard established by the city in consultation with the state's Department of Natural Resources, or both, may be punished by a civil penalty of not more than \$1,000 for each occurrence.

3. A person committing an environmental violation is not subject to a civil penalty, if all of the following conditions are satisfied:

a. The violation results solely from the person 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;

b. The person notifies the city of the violation within 24 hours from the time that the violation begins; and

c. The violation does not continue in existence for more than eight hours. The city shall not enforce this division (D)(1)(b) against a person committing an environmental violation until the city offers to participate in informal negotiations with the person. If the person accepts the offer, the city and the person shall participate in good faith negotiations to resolve issues alleged to be the basis of the violation.

4. The Director may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including

sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

5. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

6. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

7. Violation of §§ 52.065 through 52.085 of this chapter shall, in addition hereto, be a municipal infraction.

(c) *Criminal prosecution.* Any person who violates any provision of §§ 52.065 through 52.085 of this chapter shall, in addition to the civil penalties in this division (D), upon conviction, be punished by a penalty as provided in § 10.999 of this code of ordinances.

(d) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to §§ 52.065 through 52.085 of this chapter or the wastewater contribution permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under §§ 52.065 through 52.085 of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999 of this code of ordinances.

(e) *Remedies non-exclusive.* The provisions in this section are not exclusive remedies. Additional remedies shall include, but not be limited to, injunctive relief, suits for monetary damage and suits for court orders directing compliance. The city reserves the right to take any, all or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.
(2013 Code, § 28-98)

(2) *Affirmative defenses to discharge violations.*

(a) *Upset.* Upset used as an affirmative defense to a discharge violation under §§ 52.065 through 52.085 of this chapter shall be in accordance with the following.

1. For the purposes of this division (D)(2), the term **UPSET** means an exceptional incident in which there is unintentional and temporary non-compliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for non-compliance with categorical pretreatment standards if the requirements hereof are met.

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3. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

a. An upset occurred and the industrial user can identify the cause of the upset;

b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

c. The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five days:

i. A description of the indirect discharge and cause of non-compliance;

ii. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the non-compliance.

4. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

5. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with categorical pretreatment standards.

6. The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This division (D)(2)(a)6. applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(b) *General/specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general and specific prohibitions in §§ 52.067 and 52.068 of this chapter if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to and during the pass through or interference; or

2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city WPCP was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.* Bypass used as an affirmative defense to a discharge violation under §§ 52.065 through 52.085 of this chapter shall be in accordance with the following:

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1. For the purpose of this division (B), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of waste streams from any portion of a industrial user's treatment facility.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

2. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of divisions (D)(2)(c)3. and (D)(2)(c)4. below.

3. Notice of bypass shall be submitted as follows.

a. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten days before the date of the bypass, if possible.

b. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain: a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent occurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

4. Enforcement actions and approval of an anticipated bypass shall be as follows.

a. Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless:

i. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

iii. The industrial user submitted notices as required hereunder.

b. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in division (D)(2)(c)4.a. above.

(2013 Code, § 28-99)

(Ord. 14438, passed 8-23-1993; Ord. 14461, passed 5-23-1994; Ord. 14531, passed 3-25-1996; Ord. 14711, passed 3-24-2003; Ord. 14914, passed 12-10-2012; Ord. 14933, passed 9-8-2014; Ord. 14945, passed 3-14-2016; Ord. 14970, passed 11-27-2017)

CHAPTER 53: STORM WATER

Section

Storm Water Utility

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STORM WATER UTILITY

§ 53.001 PURPOSE AND OBJECTIVE.

(A) The purpose of this chapter is to establish a policy and procedure for managing and controlling the quantity and quality of storm water runoff within the city limits. The management shall include the establishment of a Storm Water Utility to provide revenues for whatever aspects of this requirement are deemed appropriate by the city.

(B) The city finds, determines and declares that the storm water drainage system provides benefits and services to all property within the city limits. Such benefits include, but are not limited to: the provision of adequate systems for collection,

conveyance, detention, treatment and release of storm water for quality and quantity management that minimize impacts on receiving waters.

(C) In order to manage additions and improvements to the city storm water systems, the city must have adequate and stable funding for its storm water management program operating and capital investment needs.

(2013 Code, § 28-120) (Ord. 14713, passed 7-14-2003; Ord. 14918, passed 4-22-2013)

§ 53.002 CREATION OF STORM WATER MANAGEMENT AND DRAINAGE SYSTEMS UTILITY.

(A) The function of the Storm Water Management and Drainage Systems Utility (hereinafter referred to as “Storm Water Utility”) within the Department of Public Works is to provide for the safe and efficient capture of storm water runoff, mitigate the damaging effects of storm water runoff, correction of storm water problems, to fund activities of storm water management and include design, planning, regulations, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

(B) There is hereby established a Storm Water Utility within the city, which shall be responsible for creating revenue for storm water management throughout the city’s corporate limits, and shall provide for the management, protection, control, regulation, use and enhancement of storm water systems and facilities. Such utility shall be under the operational direction of the Public Works Director. The corporate limits of the city, as increased from time to time, shall constitute the boundaries of the Storm Water Utility District.

(C) The city shall establish a Storm Water Utility Fund in the city budget and accounting system, separate and apart from its General Fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility.

(2013 Code, § 28-121) (Ord. 14918, passed 4-22-2013)

§ 53.003 DEFINITIONS.

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

ADJUSTMENT. A modification in a non-residential customer’s storm water rate for certain activities that impact storm water runoff or impact the city’s costs of providing storm water management.

CITY. The City of Marshalltown.

DETACHED DWELLING UNIT. Developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one family. **DETACHED DWELLING UNITS** may include houses, manufactured homes and mobile homes located on one or more individual lots or parcels of land.

DEVELOPED AGRICULTURAL PROPERTIES. A lot or parcel of real estate used as a “farm”, which may contain one or greater dwelling units and/or other building structures, but does not include undeveloped properties.

DEVELOPED PROPERTY. Property altered from its natural state by the construction or installation of a structure equaling more than 150 square feet of impervious surface, thus increasing the amount of rain water or surface water runoff.

DIRECTOR. The Director of the Storm Water Utility.

EXEMPT PROPERTY. Includes public streets, alleys and sidewalks; all undeveloped properties.

GROUND WATER. Sub-surface water or water stored in pores, cracks and crevices in the ground below the water table.

IMPERVIOUS AREA. The number of square feet of hard-surfaced areas that either prevent or resist the entry of water into soil surface, as it entered under natural conditions as undeveloped property, and/or that cause water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undeveloped property. This includes, but is not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts and semi-impervious surfaces such as gravel which are used as driveways or parking lots.

NON-RESIDENTIAL PROPERTIES. All properties not encompassed by the definition of residential shall be defined as non-residential. **NON-RESIDENTIAL PROPERTIES** shall include: single-family and duplex properties with gross area greater than two acres; apartment building properties; condominium properties; mobile home parks; developed agricultural properties; commercial property; industrial property; institutional property; governmental property; churches; hospitals; schools; transient rentals; parking lots; federal, state, county and local properties; and any other property not mentioned in the lists of properties.

OCCUPANT. The person residing or doing business on the property. In a family or household situation, the person responsible for the obligation imposed shall be the adult head of the household. In a shared dwelling or office situation, the adult legally responsible for the management or condition of the property shall be responsible.

OWNER. The legal owner(s) of record as shown on the tax rolls of the city, except where there is a recorded land sale contract, the purchaser thereunder shall be deemed the **OWNER**.

RESIDENTIAL PROPERTY. All single-family and duplex properties located within the corporate limits of the city with gross area less than or equal to two acres.

STORM SEWER. A sewer, which carries storm water, surface runoff, street wash waters and drainage, but which excludes sanitary sewage and industrial wastes, other than permitted discharges.

STORM WATER. Storm water runoff, snowmelt runoff and surface runoff and drainage.

STORM WATER DRAINAGE SYSTEM. All human-made facilities, structures and natural watercourses owned by the city, used for collection and conveying storm water to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features; canals; creeks; catch basins; ditches; streams; gullies; ravines; flumes; culverts; siphons; streets; curbs; gutters; dams; flood walls; levees; and pumping stations.

STORM WATER FACILITIES. Various storm water and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, stream channels, outlets, retention/detention basins, infiltration practices and other structural components.

STORM WATER MANAGEMENT. The tasks required to control storm water runoff using storm water management systems, to protect the health, safety and welfare of the public, and comply with relevant state and federal regulations.

STORM WATER MANAGEMENT SYSTEMS. Address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention and treatment of storm water or surface water drainage.

STORM WATER RATE. The periodic rate applicable to a parcel of developed land, which charge shall be reflective of the service provided by the city's Storm Water Utility. **STORM WATER RATES** are based on measurable parameters which influence the Storm Water Utility's cost of providing services and facilities, with the most important factor being the amount of impervious area on each parcel of developed land.

STORM WATER UTILITY. The utility established under this subchapter for the purpose of managing storm water and imposing charges for the recovery of costs connected with such storm water management.

SURFACE WATER. Water bodies and any water temporarily residing on the surface of the ground including lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff.

UNDEVELOPED PROPERTY. Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. **UNDEVELOPED LAND** shall have minimal concrete pavement, asphalt or compacted gravel surfaces or structures which create an impervious surface.

USER. The owner and/or occupant of any developed property within the corporate limits of the city, and shall mean any person who uses property which maintains connection to, discharges to or otherwise receives services from the city for storm water management. The occupant of any habitable property is deemed the **USER**. If the property is not occupied, then the owner shall be deemed the **USER**.

WATERCOURSE. A natural overland route through which water passes, including drainage courses, streams, creeks and rivers.
(2013 Code, § 28-122) (Ord. 14918, passed 4-22-2013)

§ 53.004 STORM WATER UTILITY FUND.

(A) Funding for the Storm Water Utility's activities may include, but are not limited to: storm water rate charges; storm water permits and inspection fees; other funds or income obtained from federal, state, local and private grants, bonds or loans.

(B) All rate charges and all sources of revenue generated by or on behalf of the Storm Water Utility shall be deposited in a Storm Water Utility Fund and used exclusively for management of the Storm Water Utility.
(2013 Code, § 28-123) (Ord. 14918, passed 4-22-2013)

§ 53.005 STORM WATER UTILITY BUDGET.

The city shall adopt an operating and capital budget for the Storm Water Utility each fiscal year. The budget shall set forth revenues for such fiscal year and estimated expenditures for operations, maintenance, improvements, replacement and debt service.
(2013 Code, § 28-124) (Ord. 14918, passed 4-22-2013)

§ 53.006 RATE STRUCTURE AND STORM WATER RATE.

(A) Any property, lot, parcel of land, building or premises that is tributary directly or indirectly to the storm water system of the city, shall be subject to a rate based upon the quantity of impervious area situated thereon. This charge is not related to the water and/or sewer service and does not rely on occupancy of the premises to be in effect. All properties having impervious area of at least 150 square feet within the corporate limits of the city will be assigned the rate.

(B) A unit of impervious surface area on an average single-family, residential property or equivalent residential unit (ERU) is the quantity used for assessing storm water charges. One ERU equals 2,800 square feet of impervious area for the city.

(C) The Storm Water Utility charge is calculated based on the following method.

(1) Single-family residential customers and duplexes with gross property area less or equal to two acres will be assigned one ERU and assessed a storm water charge that is equivalent to one ERU unit rate per month.

(2) All other developed properties shall be assigned a number of ERUs based upon the property's individually measured impervious area (in square feet) divided by one ERU, or 2,800 square feet, and rounding up to the nearest integer. The monthly storm water charge assessed to each of these properties in the number of ERUs times the ERU unit rate.

(3) Storm water charges for new residential customers with gross property area greater than two acres or non-residential developments shall be based on field measurements of impervious areas.

(D) Actual impervious area measurements shall be maintained by the city's Engineering Department for all residential customers with parcels greater than two acres and non-residential customers to determine their share of the storm water management costs. In no event shall any owner specified herein pay less than the rate required for one ERU per month. As part of the building permit process, property owners shall coordinate with the city's Building Inspection and Engineering staff to ensure that, as impervious areas change on the owner's property due to construction or

demolition, the Engineering Department maintains up to date records of impervious areas for use in determining property Storm Water Utility billing.

(E) Commencing on 7-1-2017, and continuing thereafter, the monthly unit rate shall be \$4 per equivalent residential unit (ERU).

(F) The rates shall become effective on July 1 in each year, with rates being effective upon publication of the ordinance as required by law.

(2013 Code, § 28-125) (Ord. 14956, passed 2-27-2017)

§ 53.007 DIRECTOR OF STORM WATER UTILITY; POWERS.

Storm water service charges incurred pursuant to this chapter may be collected by the Storm Water Utility Director or designee who is also responsible for the regulation, collection, rebating and refunding of such storm water charges.

(2013 Code, § 28-126) (Ord. 14918, passed 4-22-2013)

§ 53.008 POWERS AND DUTIES OF THE CITY.

(A) The city shall have the following powers, duties and responsibilities with respect to the Storm Water Utility:

(1) Administer the design, construction, maintenance and operation of the utility system, including capital improvements designated in the comprehensive drainage plan; and

(2) Acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the city to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, but are not limited to, surface and underground drainage facilities, storm sewers, watercourses, ponds, ditches and such other facilities relating to collection, runoff, treatment and retention as will support a storm water management system.

(B) The city shall separately account for the Storm Water Utility finances. The Storm Water Utility shall prepare an annual budget, which is to include all operation and maintenance costs and costs of borrowing. The budget is subject to approval by the City Council. Any excess of revenues over expenditures in a year shall be retained in a segregated fund, which shall be used for Storm Water Utility expenses in subsequent years. Storm water utility fees collected shall be deposited in the Storm Water Utility Fund and shall be used for no other purpose.

(2013 Code, § 28-127) (Ord. 14918, passed 4-22-2013)

§ 53.009 RESPONSIBILITY FOR MANAGEMENT AND SYSTEM.

(A) The city's storm water management and drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and

other structures, natural or human-made, within the political boundaries of the city which control and/or convey storm water and through which the city intentionally diverts surface waters from its public streets and properties. The city owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which:

- (1) Are located within public streets, rights-of-way and easements;
- (2) Are subject to easements of rights-of-entry, rights-of-access, rights-of-use or other permanent provisions for adequate access for operation, maintenance and/or improvement of systems and facilities; or
- (3) Are located on public lands to which the city has adequate access for operation, maintenance and/or improvement of systems and facilities. Operation and maintenance of storm water systems and facilities which are located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner.

(B) It is the intent of this section to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without the boundaries of the city. The city expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created.
(2013 Code, § 28-128) (Ord. 14918, passed 4-22-2013)

CONDITIONS AND CHARGES

§ 53.020 ON-SITE STORM WATER SYSTEMS; ENFORCEMENT AND INSPECTIONS.

(A) All property owners and developers of developed real property within the city shall provide, manage, maintain and operate on-site storm water systems sufficient to collect, convey, detain and discharge storm water in a safe manner consistent with all city, state and federal laws and regulations.

(B) Pursuant I.C.A. § 364.12(3) or successor section of the state code, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the city. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the city, the city may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The city shall have the right, pursuant to the authority of this section, for its designated officers and employees to enter upon private and public property owned by entities other than the city, upon reasonable notice to the

owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

(2013 Code, § 28-129) (Ord. 14918, passed 4-22-2013)

§ 53.021 RIGHT TO APPEAL.

Any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner.

(A) An appeal must be filed in writing with the City Administrator. In the case of service charge appeals, the appeal shall include a survey prepared by a registered state land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.

(B) Using the information provided by the appellant, the City Administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days.

(C) In response to an appeal, the City Administrator may adjust the storm water service charge applicable to a property in conformance with the general purpose and intent of this chapter.

(D) A decision of the City Administrator which is adverse to an appellant may be further appealed to the City Council within 30 days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The City Council shall schedule a public hearing within 30 days. All decisions of the City Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.

(E) All decisions of the City Council shall be final.
(2013 Code, § 28-130) (Ord. 14918, passed 4-22-2013)

§ 53.022 BILLING AND COLLECTION.

(A) A storm water service charge bill may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due and the date when past due. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, liability for payment of the storm water management charge attributable to that property shall be joint and several as to the owner and occupant.

(B) All comprehensive storm water service charges are due and payable 30 days after the date of billing.

(C) A penalty of 5% shall be added to a comprehensive storm water service charge when the charge is not paid in said 30 days; or a 1.5% per month late charge shall be billed based on the unpaid balance of any Storm Water Utility service charge that becomes delinquent; or each storm water service charge rendered under or pursuant to this chapter is hereby made a lien upon the corresponding lot, parcel of land, building or premises that are tributary directly or indirectly to the storm water

system of the city and, if the same is not paid within 60 days of invoice date, it shall be certified to the County Treasurer, who shall place a lien on said property as allowed by law and be collected in the same manner as property taxes.

(D) (1) The Storm Water Utility charges in this chapter shall constitute a lien upon the premises served by the storm water management and drainage system utility.

(2) Quarterly, the Director of Public Works may furnish to the City Clerk a list of all Storm Water Utility charges that have remained unpaid and delinquent for a period of 60 days prior to the end of that quarter, together with the name of the owner and the legal description of the property or premises for each separate bill, and this list may be certified to the County Auditor by the City Clerk for collection in the same manner as taxes, and when so collected the proceeds shall become a part of the Storm Water Utility Fund of the city.

(3) Failure to send or receive a bill for comprehensive storm water service charge is not a defense to the collection of the service charges.

(E) Suits for collection shall be commenced by the city in the state's District Court for the county. No lien shall be imposed for delinquent collections unless a judgment is first obtained from a court of competent jurisdiction. The city may employ any lawful means to collect funds owed and is not restricted to filing a lawsuit.

(F) The Storm Water Utility service charge may be billed on a common statement and collected along with other city utility services.

(2013 Code, § 28-131) (Ord. 14918, passed 4-22-2013)

§ 53.023 ADJUSTMENTS TO SERVICE CHARGES.

Increase adjustments (debit) will be made to non-residential service charges by property owners adding additional impervious area such as rooftops, parking lots, driveways and walkways.

(2013 Code, § 28-132) (Ord. 14918, passed 4-22-2013)

§ 53.024 EXEMPTIONS AND CREDITS AVAILABLE.

(A) All public or private property shall be subject to Storm Water Utility rate charges, except as provided in this chapter. The following areas are exempt from Storm Water Utility rate charges:

(1) Undeveloped property, as defined in this chapter; and

(2) Streets, alley ways and highways in the public and private domain are exempt from utility service charges or connection fees. Railroad rights-of-way (tracks) shall be exempt from storm water rate charges. However, railroad stations, maintenance buildings or other developed land used for railroad purposes shall not be exempt from storm water service charges.

(B) Decrease adjustments (credit) can be made to non-residential property rates for performing activities that reduce the impact of storm water runoff to the storm

water system or lessen the burden in accordance with the city's Storm Water Utility Rate Credit Policy, as set by Council resolution.
(2013 Code, § 28-133) (Ord. 14918, passed 4-22-2013)

§ 53.025 STATEWIDE URBAN DESIGNS AND SPECIFICATIONS.

The city adopts the *Statewide Urban Designs and Specifications (SUDAS)* standards prepared by the Center of Transportation Research and Education at Iowa State University, for storm water management and drainage as set out in its *2004 Design Manual and Specifications*, §§ 1, 2, 3 and 8 of Ch. 2 of said Manual.
(2013 Code, § 28-134) (Ord. 14918, passed 4-22-2013)

§ 53.026 DETENTION REQUIRED; DESIGN REQUIREMENTS; REDEVELOPMENT.

(A) Storm water runoff detention shall be required on low-density single- or two-family residential subdivisions of four or more lots and all medium- and high-density multi-family residential, commercial and industrial development in the city.
(2013 Code, § 28-135)

(B) Design of storm water detention in the city and as regulated in § 8.4 of the *Iowa Statewide Urban Design Standards Manual* shall be based on the following detention requirements:

(1) Runoff shall be detained from a 100-year storm event with the property in a developed state; and

(2) The release rate from detention shall be based on a rate not to exceed a five-year storm event on the property undeveloped.

(2013 Code, § 28-136)

(C) On any development of one acre or more, storm water detention shall be planned and installed as part of the required Pollution Prevention Plan and as an erosion control device. At no time shall occupancy be granted prior to completion of the detention facility.

(2013 Code, § 28-137)

(D) Any redevelopment of a lot to repair, replace or add-on to the existing improvements, that generate runoff greater than that discharged prior to redevelopment shall require detention. Said detention facilities shall, at a minimum, provide for the increased volume of runoff generated by the redevelopment (preferably for runoff from the whole development), unless the original detention facility was designed for the proposed new redevelopment.

(2013 Code, § 28-138A)

(E) If a developer can demonstrate that detention facilities are unfeasible to construct, the city may grant exception to the detention requirement and said developer shall pay a fee in lieu of constructing storm water detention facilities. The fee shall be based on the type of development/zoning, the runoff coefficient set by the city and a fee of \$15,000 per acre prorated by the runoff coefficient. The fee is calculated as follows:
category runoff coefficient:

- (1) Low-density and single- and two-family residential: \$0.40, \$6,000 per acre or fraction thereof to be developed;
- (2) Medium-high-density and multi-family residential: \$0.80, \$12,000 per acre or fraction thereof to be developed;
- (3) Commercial: \$0.90, \$13,500 per acre or fraction thereof to be developed; and
- (4) Industrial: \$0.80, \$12,000 per acre or fraction thereof to be developed.

(2013 Code, § 28-138B)

(F) All new medium- and high-density residential, commercial or industrial development shall be required to have storm water detention, unless a building permit was issued prior to this chapter's passage and publication. Low-density single- and two-family residential subdivisions of four lots or more shall also have detention requirements unless a preliminary plat was approved by the City Council prior to passage and publication of this chapter.

(2013 Code, § 28-139)

(Ord. 14746, passed 9-13-2004; Ord. 14918, passed 4-22-2013)

CHAPTER 54: ILLICIT DISCHARGES TO STORM SEWER SYSTEM

Section

- 54.001 Purpose
- 54.002 Definitions
- 54.003 Allowable non-storm water
- 54.004 Illicit discharges prohibited
- 54.005 Illicit connections prohibited
- 54.006 Industrial discharges
- 54.007 Illicit discharge detection and reporting; cost recovery
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§ 54.001 PURPOSE.

The purpose of this chapter is to provide for the health, safety and general welfare of the citizens of the city through the regulation of non-storm water discharges to the city's separate storm sewer system to the maximum extent practicable, as required by federal law. This chapter establishes methods for controlling the introduction of pollutants into the city's separate storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit.

(2013 Code, § 28-140) (Ord. 14800, passed 2-26-2007)

§ 54.002 DEFINITIONS.

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

ACCIDENTAL DISCHARGE. A discharge prohibited by this chapter, which occurs by chance and without planning or consideration prior to occurrence.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

HAZARDOUS MATERIALS. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL CONNECTION. Either of the following:

(1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any direct or indirect non-storm water discharge to the city's separate storm sewer system, except as exempted in § 54.003 of this chapter.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits, as defined in 40 C.F.R. § 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4. Any facility designed or used for collecting or conveying storm water or both, including inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls or other drainage structures which are owned or maintained by the city.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT. A permit issued by the state's Department of Natural Resources (IDNR) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

POLLUTANT. Anything that causes or contributes to pollution. **POLLUTANTS** may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects or accumulations, so

that same may cause or contribute to pollution; floatables; hazardous substances and wastes; sewage; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

POLLUTION. The contamination or other alteration of any water's physical, chemical or biological properties, including change in color, turbidity or odor of such waters or the discharge of any liquid, gaseous, solid or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

RESPONSIBLE PARTY. One or more persons that control or are in possession of or own property. **RESPONSIBLE PARTIES** shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any illicit discharge from the property controlled, possessed or owned. For purposes of this chapter, "property" includes, but is not limited to, real estate, fixtures, facilities and premises of any kind located upon, under or above the real estate.

STORM WATER RUNOFF or **STORM WATER.** Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STRUCTURAL STORM WATER CONTROL. A structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

(2013 Code, § 28-141) (Ord. 14800, passed 2-26-2007)

§ 54.003 ALLOWABLE NON-STORM WATER.

Discharges from firefighting activities, fire hydrant flushings, potable water sources, waterline flushings, uncontaminated ground water, foundation or footing drains, springs, riparian habitats, wetlands, irrigation water, air conditioning condensate, exterior building wash water when no detergents or other surfactants are used and pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred and when no detergents or other surfactants are used.

(2013 Code, § 28-142) (Ord. 14800, passed 2-26-2007)

§ 54.004 ILLICIT DISCHARGES PROHIBITED.

(A) Nothing in this chapter shall be deemed to relieve a responsible party subject to an IDNR-issued industrial discharge permit or any other federal, state or city permit, statute, ordinance or rule, from any obligation imposed by such permit, statute, ordinance or rule if any such obligation is greater than any obligation imposed by this chapter.

(B) Any discharge into the city's storm sewer system prohibited by the city's MS4 permit, the terms of which are hereby incorporated by reference, shall be deemed an "illicit discharge" in violation of this chapter.

(C) Sediment pollution originating from excessive erosion rates on a construction site not otherwise subject to Ch. 55 of this code of ordinances or sediment pollution entering a municipal storm sewer that causes a water quality violation as determined by the DNR shall be deemed an illicit discharge in violation of this chapter. (2013 Code, § 28-143) (Ord. 14800, passed 2-26-2007) Penalty, see § 54.999

§ 54.005 ILLICIT CONNECTIONS PROHIBITED.

(A) The construction, use, maintenance or continued existence of any illicit connection shall constitute a violation of this chapter.

(B) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. (2013 Code, § 28-144) (Ord. 14800, passed 2-26-2007) Penalty, see § 54.999

§ 54.006 INDUSTRIAL DISCHARGES.

(A) Any responsible party subject an industrial NPDES discharge permit issued by the IDNR shall comply with all provisions of such permit.

(B) Proof of compliance with said permit may be required in a form acceptable to the Enforcement Officer prior to discharges to the storm sewer system authorized by said permit. (2013 Code, § 28-145) (Ord. 14800, passed 2-26-2007)

§ 54.007 ILLICIT DISCHARGE DETECTION AND REPORTING; COST RECOVERY.

(A) All detection activities permitted under this chapter shall be conducted by the Superintendent of Water Pollution Control, or his or her designee, hereinbefore and after referred to as the "Enforcement Officer".

(B) The city shall not be responsible for the direct or indirect consequences to persons or property of an illicit discharge or circumstances which may cause an illicit discharge, detected or undetected by the city.

(C) Every responsible party has a duty to monitor conditions on property owned or controlled by them, to prevent all illicit discharges and to report to the Enforcement Officer illicit discharges, which the responsible party knows or should have known to have occurred. Failure to comply with any provision of this chapter is a violation of this chapter.

(D) Notwithstanding other requirements of law, as soon as any responsible party has information of any known or suspected illicit discharge, the responsible party

shall immediately take all necessary steps to ensure the discovery, containment and clean-up of such discharge at the responsible party's sole cost.

(E) If the illicit discharge consists of hazardous materials, the responsible party shall also immediately notify emergency response agencies of the occurrence via emergency dispatch services.

(F) If the illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(G) A report of an illicit discharge shall be made in person or by phone or facsimile or email to the Enforcement Officer immediately, but in any event within 24 hours of the illicit discharge; notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the Enforcement Officer within 24 hours of the personal or phone notice.

(H) Any person or entity shall also report to the city any illicit discharge or circumstances which such person or entity reasonably believes pose a risk of an illicit discharge.

(I) Upon receiving a report pursuant to the previous provisions of this section, or otherwise coming into possession of information indicating an actual or imminent illicit discharge, the Enforcement Officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide to the responsible party, and any third party reporter, a written report of the conditions which may cause or which have already caused an illicit discharge. The responsible party shall immediately commence corrective action or remediation and shall complete such corrective action or remediation within 24 hours.

(J) The Enforcement Officer shall be permitted to enter and inspect property subject to regulation under this section as often as is necessary to determine compliance with this section. If a responsible party has security measures that require identification and clearance before entry to its property or premises, the responsible party shall make the necessary arrangements to allow access by the Enforcement Officer. By way of specification, but not limitation:

(1) A responsible party shall allow the Enforcement Officer ready access to all parts of the property for purposes of inspection, sampling, examination and copying of records related to a suspected, actual or imminent illicit discharge and for the performance of any additional duties as defined by state and federal law;

(2) The Enforcement Officer shall have the right to set up on any property such devices as are necessary in the opinion of the Enforcement Officer to conduct monitoring and/or sampling related to a suspected, actual or imminent illicit discharge; and

(3) The Enforcement Officer shall have the right to require any responsible party at the responsible party's sole expense to install monitoring equipment and deliver monitoring data or reports to the Enforcement Officer as the Enforcement Officer directs. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the responsible party at responsible party's sole expense. All devices shall be calibrated to ensure their accuracy.

(K) Any temporary or permanent obstruction to safe and easy access to property to be inspected and/or sampled shall be promptly removed by the responsible party at the written or oral order of the Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the responsible party.

(L) An unreasonable delay in allowing the Enforcement Officer access to a property is a violation of this chapter.

(M) If the Enforcement Officer has been refused access to any part of the property from an illicit connection or illicit discharge, or both to a municipal storm sewer is occurring, suspected or imminent, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect or sample, or both as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

(N) If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the city in the enforcement of this chapter shall be recovered from the responsible party. The Enforcement Officer shall submit an invoice to the responsible party reflecting the actual costs and wages and expenses incurred by the city for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within 30 days of billing shall constitute a violation of this chapter.

(2013 Code, § 28-146) (Ord. 14800, passed 2-26-2007; Ord. 14870, passed 3-8-2010)

§ 54.008 SUSPENSION OF ACCESS TO CITY'S STORM SEWER SYSTEM.

(A) *Emergency suspension.* The Enforcement Officer may, without prior notice, suspend storm sewer system access to a property when such emergency suspension is necessary to stop an ongoing or imminent illicit discharge. If the responsible party fails to immediately comply with an emergency suspension order, the Enforcement Officer shall take such steps as deemed necessary to prevent or minimize the illicit discharge. All costs of such action shall be recovered from the responsible party for the property identified as the source of the illicit discharge.

(B) *Non-emergency suspension.* If the Enforcement Officer detects or is informed of circumstances which could cause an illicit discharge, but such illicit discharge is not ongoing or imminent, and if the suspension of storm sewer system access would reasonably be expected to prevent or reduce the potential illicit discharge, the Enforcement Officer shall notify the responsible party of the proposed suspension of storm sewer system access and the time and date of such suspension. Notice to one responsible party for the property shall be sufficient notice to all. Remediation of the circumstances shall avoid a violation of this chapter; provided that, no illicit discharge occurs. In the alternative, the responsible party may request a meeting with the Enforcement Officer for the purpose of presenting information which the responsible party believes will show that remediation is unnecessary and, if the Enforcement Officer finds such information is satisfactory, the Enforcement Officer may rescind or modify the notice of suspension. If the Enforcement Officer finds such information unsatisfactory,

the Enforcement Officer shall issue a final written order of suspension including the date and time of suspension and such order may be appealed as provided in this chapter. Any physical action to reinstate storm sewer system access to property subject to such order prior to obtaining a court order of relief shall be deemed a violation of this chapter. An order of suspension shall not preclude charging the responsible party with a municipal infraction as provided hereinafter or taking any other enforcement action permitted by law.
(2013 Code, § 28-147) (Ord. 14800, passed 2-26-2007)

§ 54.009 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property below the elevation of the 100-year flood free of trash, debris, grass clippings or other organic wastes and other obstacles that would pollute, contaminate or significantly alter the quality or quantity of water flowing through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.
(2013 Code, § 28-148) (Ord. 14800, passed 2-26-2007) Penalty, see § 54.999

§ 54.010 APPEAL.

(A) Administrative decisions by city staff and enforcement actions of the Enforcement Officer may be appealed by the applicant to the City Council pursuant to the following rules.

(1) The appeal must be filed in writing with the City Clerk within five business days of the decision or enforcement action.

(2) The written appeal shall specify in detail the action appealed from, the errors allegedly made by the Enforcement Officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing and the relief requested.

(3) The Enforcement Officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the Enforcement Officer intends to introduce at the hearing, including the names and addresses of all witnesses the Enforcement Officer intends to call and copies of all documents the Enforcement Officer intends to introduce at the hearing.

(4) The City Clerk shall notify the applicant and the Enforcement Officer by ordinary mail, and shall give public notice in accordance with I.C.A. Ch. 21 of the date, time and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four, nor more than 20, days after the filing of the appeal. The rules of

evidence and procedure, and the standard of proof to be applied, shall be the same as provided by I.C.A. Ch. 17A. The applicant may be represented by counsel at the applicant's expense. The Enforcement Officer may be represented by the City Attorney or by an attorney designated by the City Council at city expense.

(B) The decision of the City Council shall be rendered in writing and may be appealed to the state's District Court.

(2013 Code, § 28-150) (Ord. 14800, passed 2-26-2007)

§ 54.999 PENALTY.

(A) Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorney's fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

(B) Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of I.C.A. § 364.22, pursuant to § 10.999 of this code of ordinances.

(C) Enforcement pursuant to this section shall be undertaken by the Enforcement Officer upon the advice and consent of the City Attorney.

(2013 Code, § 28-149) (Ord. 14800, passed 2-26-2007)

CHAPTER 55: EROSION AND SEDIMENT CONTROL FOR CONSTRUCTION SITES

Section

- 55.001 General
- 55.002 Definitions
- 55.003 Major erosion control permit required
- 55.004 Minor erosion control permit required
- 55.005 Permit renewals
- 55.006 Filling requirements
- 55.007 SWPPP required; requirements; review and approval
- 55.008 Sites covered by state's DNR General Permit No. 2
- 55.009 Inspection, notice to comply and notice of violation
- 55.010 Powers and authority for inspection
- 55.011 Repair and clean-up of damage
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§ 55.001 GENERAL.

(A) Soil erosion contributes to the impairment of drainageways, increases road and storm sewer maintenance costs, contributes to the destruction and obstruction to traveled roadways creating a potential hazard for vehicular traffic, and contributes to contamination and degradation of land surfaces and streams, flooding and dusty conditions. This chapter establishes requirements in an effort to control erosion and sediment transport.

(B) Owners of certain construction sites are required, under rules contained in General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities ("General Permit No. 2"), to obtain coverage through the state's DNR under that permit.

(C) Under its Municipal Storm Water National Pollution Discharge Elimination System permit, which permit is on file at the offices of the City Clerk and the City Engineer and is available for public inspection during regular office hours, the city is required to regulate, treat and control storm water discharges into the city's storm water drainage system. One provision of that permit requires the city to enforce the requirements of General Permit No. 2 jointly with the state's DNR.

(D) General Permit No. 2 and the document entitled *Summary Guidance, A Brief Guide to Developing Pollution Prevention Plans and Best Management Practices*, issued and administered by the state's DNR, are hereby adopted and by reference made part of this section as if fully set forth herein. Any act these documents require or prohibit, is required or prohibited by this section. Any future amendments, revisions or modifications to these documents, incorporated herein, are intended to be made a part of this section.

(E) This chapter also establishes requirements for grading, filling, fill material and for obtaining erosion control permits. These requirements include use of suitable fill material, stable slope construction, proper site drainage and usability of public and private easements.

(F) Except as provided in § 55.004 of this chapter, no person shall engage in land-disturbing activities within the city unless they have received an erosion control permit from the city.

(2013 Code, § 28-160) (Ord. 14824, passed 2-11-2008) Penalty, see § 55.999

§ 55.002 DEFINITIONS.

Words using the present tense shall include the future; the singular shall include the plural; the plural shall include the singular; the masculine gender shall include the feminine; the term "shall" is always mandatory, and the term "may" is permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Any individual, firm, corporation, association or partnership, or proprietor of land to undergo land-disturbing activities.

BUILDING OFFICIAL. The Director of Community Development, or Building Trades Manager, or their designee.

CERTIFIED PROFESSIONAL EROSION AND SEDIMENT CONTROL SPECIALIST. A specialist in the area of soil erosion and sediment control as certified by

the Soil and Water Conservation Society and the International Erosion Control Association.

CITY. The City of Marshalltown, Iowa.

CITY COUNCIL. The City Council of the City of Marshalltown, Iowa.

CITY ENGINEER. The official holding the position established by § 31.030 of this code of ordinances or designee.

CIVIL ENGINEER. A professional engineer licensed in the state to practice civil engineering.

CLEARING AND GRUBBING. Removal of unwanted growth, in the form of trees, wood, shrubs, brush or stumps on a site.

DESIGN PROFESSIONAL. A licensed civil engineer or certified professional erosion and sediment control specialist.

DESIGN STANDARDS MANUAL. The 2008 edition of the *Iowa Statewide Urban Design Standards for Public Improvements (SUDAS)*.

DEVELOPMENT. The alteration of land from its existing state.

DISTURBED AREA. The part of a site on which land-disturbing activities take place. All land area that is to be disturbed at any time during the project is to be counted in determining the disturbed area, even if part of the land will be stabilized before another part is disturbed.

EROSION. The wearing away of the land surface by running water, wind, ice, gravity or other geological, natural or human-made agents.

EROSION CONTROL OFFICER. The City Engineer, Building Official or designee.

EROSION CONTROL PERMIT. A major erosion control permit or a minor erosion control permit.

FILLING. Placing materials to effectively change the site contours. This shall include placing materials from the site itself or from off site.

FILL MATERIAL. Soil, stone, rock, brick, portland cement or asphaltic concrete or sand.

FILL SITE. Land upon which fill materials are placed and which placement does not require a sanitary disposal permit issued by the state.

FINAL STABILIZATION. All land-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% for the area has been established or equivalent stabilization measures have been employed.

GENERAL PERMIT NO 2. General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities, as authored and administered by the state's DNR.

IOWA DNR. The Iowa Department of Natural Resources.

LAND-DISTURBING ACTIVITIES. Clearing, grading, excavating, filling or removal of vegetation, paving or buildings, exposing earthen material on a site.

MAJOR EROSION CONTROL PERMIT. A permit issued by the city to engage in land-disturbing activities on a site with one acre or greater disturbed area.

MINOR EROSION CONTROL PERMIT. A permit issued by the city to engage in land-disturbing activities on a site of greater than one-quarter acre and less than one acre of disturbed area.

ORDINANCE. This chapter.

RESPONSIBLE PARTY. One or more persons who have applied for or hold a city erosion control permit, or who own, control or perform work on a site.

SEDIMENT. Solid material, both natural and human-made, that is in suspension, has been transported or has been moved from its origin by air, water, gravity or ice and has been deposited by the action of water or wind.

SITE. Property where land-disturbing activities take place.

STABILIZATION or **STABILIZED.** Vegetative cover with a density of 70% has been established, or equivalent stabilization measures have been employed.

STANDARD SPECIFICATIONS. The 2008 edition of the *Iowa Statewide Urban Standard Specifications For Public Improvements (SUDAS)*.

STORM WATER DRAINAGE SYSTEM. All human-made facilities and structures and all natural watercourses that are owned by the city, or that are within a drainage easement owned by the city, and that are used for collection, storage, treatment and conveyance of storm water from any area, through any area. This includes without limitation all storm water facilities, canals, creeks, curb and gutter, dams, ditches, flood walls, flumes, gulches, gullies, levees, ravines, siphons, streams, streets and swales. For the purpose of illicit discharge regulation, any discharge to an area tributary to the **STORM WATER DRAINAGE SYSTEM** shall be treated as a discharge to the **STORM WATER DRAINAGE SYSTEM**. The **STORM WATER DRAINAGE SYSTEM** does not include the Iowa River.

STORM WATER FACILITIES. Anything built or used for the control of storm water, including without limitation catch basins, channels, culverts, detention basins, energy dissipation structures, inlets, manholes, outlets, pipes and other conduits, retention basins and roadways and gutters.

STORM WATER POLLUTION PREVENTION PLAN. A document conforming to the requirements therefor contained in General Permit No. 2 and this chapter, prepared and certified by a design professional, as defined herein.

SWPPP. Storm Water Pollution Prevention Plan.
(2013 Code, § 28-161) (Ord. 14824, passed 2-11-2008)

§ 55.003 MAJOR EROSION CONTROL PERMIT REQUIRED.

(A) General.

(1) Sites or common plans of development or sale that will result in a total disturbed area of one or more acres shall obtain a major erosion control permit prior to any land-disturbing activities.

(2) All major erosion control permits shall be issued by the city's Engineering Department upon approval of a completed application for erosion control permit on a form provided by the city. The application shall be signed by the title holder of the site, together with the applicant, if different from the title holder.

(3) Sites required to obtain an erosion control permit shall comply with § 55.008 of this chapter, requirements for sites covered by the state's DNR General Permit No. 2, herein.

(4) A major erosion control permit application shall include the following:

(a) A completed application for erosion control permit on a form provided by the city's Engineering Department; and

(b) SWPPP conforming to the requirements of this chapter, and the requirements of General Permit No 2. If a SWPPP for the site has previously been submitted to the city and has not been modified, the applicant shall submit a signed and dated statement that the SWPPP has not been modified, in which case the SWPPP need not be resubmitted.

(B) *Payment of the permit fee.* The permittee shall provide the Erosion Control Officer with all material submitted as part of a notice of discontinuation when such a notice is filed with the state's DNR.

(2013 Code, § 28-162) (Ord. 14824, passed 2-11-2008)

§ 55.004 MINOR EROSION CONTROL PERMIT REQUIRED.

(A) *General.*

(1) Sites or common plans of development or sale that will result in a disturbed area of greater than one-quarter of an acre, but less than one acre, shall obtain a minor erosion control permit prior to any land-disturbing activity, except:

(a) Filling or construction within floodplain limits as established by the Federal Emergency Management Agency and in Ch. 158 of this code of ordinances will require a separate additional permit under that ordinance, in addition to the permits required by this chapter; and

(b) For work that is specifically covered by a city demolition permit, building permit, NPDES permit or approved plan of improvements containing a SWPPP, a minor erosion control permit is not required. However, site filling and grading done pursuant to these approved permits and plans shall meet the requirements of this chapter.

(2) The following activities are exempt from the requirements of this chapter:

- (a) Crop production activities;
- (b) Cemetery graves;
- (c) Emergencies posing an immediate danger to life or property or substantial flood or fire hazards;
- (d) Total fill quantity of less than 25 cubic yards in a 12-month time period; and
- (e) Public improvements.

(B) *Issuance.*

(1) All minor erosion control permits shall be issued by the city's Building Official upon approval of a completed application for erosion control permit on a form provided by the city. The application shall be signed by the title holder(s) of the site, together with the applicant, if different from the title holder(s).

(2) A minor erosion control permit application shall include the following:

(a) A completed application for erosion control permit on a form provided by the city; and

- (b) A dimensioned drawing including the following:
 - 1. Property address and legal description;
 - 2. Property lines and any existing easements of record;
 - 3. Limits of area of land-disturbing activities;
 - 4. Existing and proposed ground elevations (two-foot maximum interval);
 - 5. A SWPPP if required under § 55.007(A) of this chapter; and
 - 6. Other information as required by the city's Building Official or Engineer.
- (2013 Code, § 28-163) (Ord. 14824, passed 2-11-2008)

§ 55.005 PERMIT RENEWALS.

(A) Erosion control permits shall be valid for a period of one year from the date of issuance and may be renewed as provided for herein.

(B) A renewal application shall include the following:

- (1) A completed application for erosion control permit renewal on a form provided by the city;
- (2) Payment of the renewal fee; and
- (3) Any information required in §§ 55.003 (for a major permit) or 55.004 (for a minor permit) if it has changed. A major permit renewal shall include a certification by the design professional (as defined herein) that all changed conditions are included in the renewal application.

(C) The city shall revoke an erosion control permit or decline renewal if unacceptable materials are being deposited at the site, or if the permittee has failed to comply with any of the regulations set forth in this chapter, or any requirement of law, statute or regulation.

(2013 Code, § 28-164) (Ord. 14824, passed 2-11-2008)

§ 55.006 FILLING REQUIREMENTS.

(A) *General.*

(1) Clearing and grubbing shall be performed according to Part 3 of § 2010 of the Standard Specifications, except as provided in this chapter.

(2) Fill material shall be placed according to the SWPPP as accepted by the city.

(3) Interim filling during construction shall be placed in a safe manner. Slope stabilization, inspection and maintenance of erosion control and soil stabilization where work has been suspended shall be according to the *Design Standards Manual*.

(4) Finish grading shall be according to Part 3 of § 2010 of the Standard Specifications.

(5) Finish slopes shall not exceed a three to one (3:1) ratio on any slope facing and terminating within 15 feet of a property line.

(B) *Unacceptable fill materials.*

(1) Fill materials shall not include hazardous waste, synthetic material, metal and organic material other than natural topsoil incidental to excavation, except as noted below. Concrete, brick, tile and other manufactured inert material shall not be greater than 18 inches in its greatest dimension. Asphalt paving material shall not be used for bank stabilization or where the final location will be below the known water table.

(2) Trees may be buried within the site they originate from; provided, they are not buried within structural footprints or in earthwork providing structural support, such as for building foundations and roadways. Trees shall not be placed in the trench backfill for sewers, culverts and other underground utilities. Trees shall not be imported on-site from off-site for use as fill.

(2013 Code, § 28-165) (Ord. 14824, passed 2-11-2008)

§ 55.007 SWPPP REQUIRED; REQUIREMENTS; REVIEW AND APPROVAL.

(A) (1) Sites with land-disturbing activities shall fall into one of two categories as determined by the City Engineer as set forth herein below.

(a) Sites with a disturbed area less than one acre shall not require submittal of a SWPPP. However, the owner of a site is required to plan and implement erosion control measures as described in the brochure *Erosion Control for Small Site Development*. The City Engineering and Building Departments shall make this brochure available. The City Engineer may require an acceptable SWPPP for sites with a disturbed area less than one acre in cases warranted by site conditions. Such site conditions may include, but are not limited to:

1. Site contains slopes of 9% or greater;
2. Site is adjacent to a water body or open drainage

channel; and

3. The site has been identified as having severe erosion or as creating a significant impact on adjacent properties, waterbodies or open drainage channels due to erosion and sediment deposition.

(b) Sites with a disturbed area greater than or equal to one acre shall require an acceptable SWPPP meeting the requirements of this chapter, certified by a design professional and approved by the City Engineer.

(2) The SWPPP must be reviewed and approved by the City Engineer prior to the commencement of land-disturbing activities.

(3) The city's acceptance of a SWPPP does not constitute approval of *Design Standards Manual* exceptions unless specifically requested and approved by the City Engineer.

(2013 Code, § 28-166)

(B) (1) Every SWPPP submitted to the city in support of an application for a major erosion control permit:

(a) Shall contain complete 24-hour contact information for the site owner and the person in responsible charge of providing and maintaining

sedimentation and erosion control for the site. The permittee shall inform the Erosion Control Officer within seven calendar days of any change in this contact information;

(b) Shall comply with all current minimum mandatory requirements for SWPPPs promulgated by the state's DNR in connection with General Permit No. 2, including those published as *Summary Guidance for General Permit No. 2* by the state's DNR. The City Engineer may develop policies modifying these requirements for sites with a disturbed area less than one acre;

(c) Shall comply with all other applicable state or federal permit requirements in existence at the time of application;

(d) Shall include a drainage plan prepared according to the *Design Standards Manual*. The drainage plan shall be accompanied by a drainage report prepared according to Ch. 53 of this code of ordinances. This code shall be available in the city's Engineering Department. The drainage report shall at a minimum demonstrate the design of proposed grading, erosion and sediment control if constructed per plan is not expected to adversely impact adjacent properties;

(e) Shall be prepared by a design professional, as defined herein; and

(f) Shall include within the SWPPP a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all requirements of this section.

(2) The SWPPP shall be modified by a design professional (as defined herein) as required in General Permit No. 2. Any modification of a SWPPP shall meet the requirements above.

(2013 Code, § 28-167)

(C) (1) The applicant shall submit a SWPPP for the site, meeting the requirements established in the *Design Standards Manual*, to the City Engineer for review and approval, as follows.

(a) The City Engineer shall review the submittal for compliance with the requirements of a SWPPP as set forth in the *Design Standards Manual*. Following the review, the City Engineer may return comments to the design professional.

(b) Following receipt of comments from the City Engineer, the applicant shall provide a revised submittal to the City Engineer in accordance with any requested revisions.

(2) The City Engineer or Building Official may require supporting documentation as needed to demonstrate conformance with these requirements. Issuance of an erosion control permit may be delayed pending receipt of the documentation.

(3) If the submittal is complete, and meets the requirements as set forth herein, the City Engineer shall approve the plan.

(2013 Code, § 28-168)

(Ord. 14824, passed 2-11-2008)

§ 55.008 SITES COVERED BY STATE'S DNR GENERAL PERMIT NO. 2.

(A) The city shall not allow any land-disturbing activity on a site for which coverage under General Permit No. 2 is required, nor shall the city issue any permit, authorization or license allowing such activity, until the site owner has obtained coverage for the site under General Permit No. 2 from the state's DNR.

(B) Any responsible party who is required to obtain, or has obtained, coverage under General Permit No. 2 shall comply with all the requirements of General Permit No. 2. Failure to do so is a violation of this section.

(C) Completion of work shown in a Storm Water Pollution Prevention Plan submitted under the provisions of General Permit No. 2 is a requirement of General Permit No. 2 and failure to complete such work is a violation of this section.

(D) For sites covered under General Permit No. 2 where the ownership changes, the Enforcement Officer must be notified of the title transfer within 30 days, except in the case of single-lot sales, which shall be recorded on the SWPPP. The new owner shall be subject to all terms and conditions of the erosion control permit. A copy of the notice of transfer that was sent to the Enforcement Officer shall be included in the SWPPP. For sites that are part of a larger common plan of development such as a housing or commercial development project, if a permittee transfers ownership of all or any part of property subject to an erosion control permit, both the permittee and transferee shall be responsible for compliance with the provisions of General Permit No. 2 and the erosion control permit for that portion of the project which has been transferred including when the transferred property is less than one acre in area. If the new owner agrees in writing to be solely responsible for compliance with the provisions of General Permit No. 2 and the erosion control permit for the property which has been transferred, then the existing permittee shall be relieved of responsibility for compliance with General Permit No. 2 and the erosion control permit for the transferred property, from and after the date the transfer of responsibility is attached to the SWPPP.
(2013 Code, § 28-169) (Ord. 14824, passed 2-11-2008)

§ 55.009 INSPECTION, NOTICE TO COMPLY AND NOTICE OF VIOLATION.

(A) The Erosion Control Officer may inspect the site in response to reports from third parties or at other times, at the Erosion Control Officer's discretion.

(B) The Erosion Control Officer may issue a notice to comply to the responsible party or parties, describing any problems and specifying a date and time by which compliance must be achieved.

(C) The Erosion Control Officer may modify a notice to comply and may authorize, in writing, an extension to the specified date and time by which compliance must be achieved.

(D) Failure to achieve compliance by the specified date and time is a violation of this section.

(E) The Erosion Control Officer shall, upon determination of any violation of this section, issue a notice of violation in writing to the responsible party or parties, indicating the nature of the violation and ordering the action necessary to correct it.

(F) The notice of violation may:

- (1) Order the discontinuance of any illegal work, specifying a date and time for such discontinuance;
 - (2) Require the repair and clean-up of any damage done due to failure to comply with General Permit No. 2, specifying a date and time for completion of repair and clean-up;
 - (3) Order the withholding of any building or occupancy permits for the site; and
 - (4) Order the discontinuance of any or all work at the site, including at the Erosion Control Officer's discretion work not directly related to the cause and prevention of erosion and sedimentation, except work necessary to achieve compliance and to repair and clean up damage, specifying a date and time for such discontinuance to commence and conditions for such discontinuance to cease.
- (G) Failure to comply with any order in a notice of violation is an additional violation. Each day of such failure constitutes a separate violation.
- (H) The Erosion Control Officer may modify a notice of violation and may authorize, in writing, an extension to the specified dates and times therein.
- (I) The notice of violation shall, where necessary or appropriate, recommend to the City Attorney the institution of legal or equitable actions that may be required for the enforcement of this section.
- (J) Communication to a responsible party's employee, partner, attorney, agent, contractor or subcontractor shall be regarded as communication to the responsible party for the purpose of this section.
- (K) Communication to one responsible party shall be regarded as communication to each responsible party for the purpose of this section.
- (2013 Code, § 28-170) (Ord. 14824, passed 2-11-2008)

§ 55.010 POWERS AND AUTHORITY FOR INSPECTION.

- (A) The City Engineer or Building Official and 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 this chapter. The applicant, owner or titleholder shall be deemed to have consented to such entry by submission of an application for any permit or plan contemplated in this chapter. Barring or delaying such inspection is a violation of this section.
- (B) The Erosion Control Officer shall have access to and be able to copy any records that must be kept under the conditions of General Permit No. 2 within three business hours, where a business hour is any hour between 8:00 a.m. and 3:30 p.m. on a non-holiday weekday.
- (2013 Code, § 28-171) (Ord. 14824, passed 2-11-2008)

§ 55.011 REPAIR AND CLEAN-UP OF DAMAGE.

Marshalltown, IA Code of Ordinances

(A) For any site, whether or not covered by an erosion control permit or other storm water discharge permit, the city may clean up eroded sediment or tracked soil deposited on public property if:

(1) Corrective action has not been completed within 24 hours or within an extended deadline granted in writing by the city; or

(2) In the judgment of the City Engineer, damage to the environment is ongoing and prompt corrective action would be intended to reduce such damage.

(B) If the city cleans up such material deposited off site, the City Engineer will invoice the responsible party or parties for the city's actual costs including overhead, which may be recorded as an assessment against the property and constitute a lien thereon.

(C) Failure to pay an invoice under this section within 30 days shall constitute a violation of this section.

(2013 Code, § 28-172) (Ord. 14824, passed 2-11-2008)

§ 55.012 APPEALS.

(A) Anyone claiming to be aggrieved by any determination made by the Erosion Control Officer may within 20 days of the date of such determination appeal to the City Manager or designee and in writing state his or her reasons for requesting such order to be rescinded or modified.

(B) The City Manager or designee shall review the determination of the Erosion Control Officer and, if reasonable grounds exist, shall modify, withdraw or order compliance with said determination.

(C) Anyone claiming to be aggrieved by the determination made by the City Manager or designee shall have such rights of appeal as provided by the law.

(2013 Code, § 28-174) (Ord. 14824, passed 2-11-2008)

§ 55.013 FEES ESTABLISHED.

(A) The City Council may establish fees by resolution for permit applications, permit renewal applications, inspections and for the review and processing of documents necessitated by this chapter.

(B) When such fees are established, a submittal shall not be considered unless the appropriate fee has been submitted to the city.

(2013 Code, § 28-175) (Ord. 14824, passed 2-11-2008)

§ 55.999 PENALTY.

(A) Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief.

(B) In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorney's fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

(C) Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of I.C.A. § 364.22, pursuant to § 10.999 of this code of ordinances.

(2013 Code, § 28-173) (Ord. 14824, passed 2-11-2008)

CHAPTER 56: POST-CONSTRUCTION STORM WATER MANAGEMENT

Section

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§ 56.001 TITLE.

This chapter shall be known as the "Marshalltown Post-Construction Storm Water Management Ordinance" and may be cited as such and will be referred to herein as "this chapter".

(2013 Code, § 28-201) (Ord. 14853, passed 2-23-2009)

§ 56.002 PURPOSE.

(A) The U.S. EPA's National Pollutant Discharge Elimination System (NPDES) permit program administered by the state's Department of Natural Resources (IDNR) requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a municipal separate storm sewer system (MS4) (MS4 permit). The city is subject to the program and is required to obtain, and has obtained, an MS4 permit. The city's MS4

permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.

(B) The purpose of this chapter is to comply with the MS4 permit requirements and establish a set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of storm water runoff for the purpose of protecting local water resources from degradation. The regulation of storm water runoff discharged from land development and other construction activities in order to control and minimize increases in storm water runoff rates and volumes, soil erosion, stream channel erosion and non-point source pollution associated with storm water runoff, is in the public interest and will prevent threats to public health and safety. (2013 Code, § 28-202) (Ord. 14853, passed 2-23-2009)

§ 56.003 DEFINITIONS.

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

APPLICANT. A person, firm or entity applying for a permit or development approval to develop, grade or construct any improvement within the corporate limits of the city.

APPROVAL. Formal, written consent by the City Council, or authorized representative of the city.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practice, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the United States. Common **BMPs** are described in the *Iowa Storm Water Management Manual* and *SUDAS*. The **BMPs** covered by are not meant to be a comprehensive list of acceptable **BMPs**.

DRAINAGE DETENTION OR OVERLAND FLOWAGE EASEMENT. A legal right granted by a land owner to a grantee allowing the use of private land for storm water management.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). The program for issuing, modifying, revoking, terminating, monitoring and enforcing permits under the Clean Water Act (§§ 301, 318, 402 and 405) and United States Code of Federal Regulations (33 C.F.R. parts 1317, 1328, 1342 and 1345).

POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN. A set of plans and specifications approved by the City Council during the approval of the site plan, construction drawing, plat that defines the system of BMPs that are to be constructed and maintained on the site.

PROPERTY. Land located in the city, whether or not improved with buildings or other structures.

PROPERTY OWNER. A person who alone or with another person or other persons, holds the legal title to property; except, however, where property has been sold on contract to a person who has the present right to possess the property and the contract has been filed for record in the construct any improvement within the corporate limits of the city.

REGIONAL DETENTION FACILITY. A wet or dry detention basin or basins which are designed to accept storm water runoff from two or more sites that are required to obtain a NPDES General Permit No. 2 and that otherwise complies with all city, state or federal permit requirements as they apply to storm water management requirements for those sites.

STORM WATER. Storm water runoff, snow melt runoff and surface runoff and drainage.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan as defined in the state's NPDES storm water general permit.

SUDAS. The current *Standard Urban Design and Specifications Manual*, as locally amended, that specifies the storm water guidelines and storm water controls deemed by *SUDAS* to meet the goals of the U.S. Environmental Protection Agencies NPDES permit program administered by the state's Department of Natural Resources. (2013 Code, § 28-203) (Ord. 14853, passed 2-23-2009)

§ 56.004 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

(A) Every property owner or applicant required to have coverage under NPDES General Permit No. 2 shall design, install and maintain Post-Construction Storm Water Management Plan (PCSWMP) facilities as approved by the City Council during the site plan, construction drawing or platting process.

(B) A state licensed professional engineer or landscape architect shall design PCSWMP facilities in conformance with the guidelines established in the *Iowa Storm Water Management Manual* and *SUDAS*. PCSWMP facilities shall be designed with appropriate BMPs, such as detention and retention basins, grass swales, buffer strips, bio-retention and other similar types of infiltration basins and riparian areas, that will convey drainage through the property to one or more treatment areas such that no development shall cause downstream property owners, watercourses, channels or conduits to receive storm water runoff from the proposed development site at a flow greater than the rate allowed.

(C) (1) In order to ensure that the PCSWMP facilities are constructed in accordance with the approved design, the property owner or applicant shall provide to the city an as-built plan detailing dimensions and elevations as well as certification that the approved facilities were installed and properly working.

(2) The as-built plan shall be completed by a state licensed professional engineer or landscape architect and submitted to the city prior to the acceptance of any improvements or issuance of any certificate of occupancy.

(D) At the discretion of the city, the property owner or applicant may satisfy the PCSWMP requirements by ensuring the conveyance of storm water discharge from the property to a regional detention facility.

(2013 Code, § 28-204) (Ord. 14853, passed 2-23-2009)

§ 56.005 MAINTENANCE.

It shall be the property owner's duty to ensure that the site is periodically inspected and maintained in accordance with the approved Post-Construction Storm Water Management Plan (PCSWMP). Periodic inspections shall be completed as needed and in no case less than one time per calendar year. Inspections shall be documented and shall be retained for at least three years. Copies of the inspection documentation shall be made available to the city upon request.
(2013 Code, § 28-205) (Ord. 14853, passed 2-23-2009)

§ 56.006 INSPECTIONS.

(A) The city shall be permitted to enter and inspect any property subject to regulation as often and as necessary to determine compliance with this chapter, after the city has first made a reasonable attempt to contact the property owner or representative of the owner.

(B) The city may conduct site visits at any time to determine compliance with the approved Post-Construction Storm Water Management Plan (PCSWMP). Additionally, the city may request that a property owner verify, through the preparation of an as-built plan completed by a state licensed professional engineer or landscape architect, that the PCSWMP facilities contain appropriate capacities and operational characteristics as originally designed and approved.

(C) In the event that a site is found not to be in compliance with the PCSWMP, the city will communicate in writing, with the property owner a list of deficiencies that identifies the area or incident of non-compliance. The property owner shall have 14 days from the date of notice to provide a written response outlining the steps and implementation timelines for corrective action. The property owner shall have 30 days from the date of notice to complete the corrective action necessary to bring the site back into compliance with the approved PCSWMP.

(D) Following the review of the property owner's written response, if extenuating circumstances exist which makes implementation of the necessary corrective action difficult to complete within the specified time period, the city may grant, at its sole discretion, a reasonable extension of time to complete the corrective action.

(E) Failure to allow access to the property, provide a written response or undertake corrective action shall constitute a violation of this chapter.

(2013 Code, § 28-206) (Ord. 14853, passed 2-23-2009) Penalty, see § 56.999

§ 56.007 CORRECTIVE ACTION BY CITY.

If the property owner fails to take corrective action in the time period prescribed in § 56.006 of this chapter, the city may do so by its own crews or by persons under its hire and assess against the property owner the city's cost therefor. Said costs shall include the salaries and benefits earned by city employees during such corrective action, a charge for city machinery used and such other costs and expenses as the city actually incurred. To the extent allowed by state law, such costs and expenses may be

assessed against the property owner and collected in the same manner as a property tax.

(2013 Code, § 28-207) (Ord. 14853, passed 2-23-2009)

§ 56.008 RESPONSIBILITY.

The failure of city officials to observe or foresee hazardous or unsightly conditions, or to impose other additional conditions or requirements, or to deny or revoke permits or approvals, or to stop work in violation of this chapter shall not relieve the property owners of the consequences of their actions or inactions or result in the city, its officers or agents being liable therefore or on account thereof. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with the NPDES General Permit No. 2 and any other requirements of the state or federal law or administrative rule.

(2013 Code, § 28-208) (Ord. 14853, passed 2-23-2009)

§ 56.009 APPEAL.

Any person affected by a decision of the city's appointed construction official or Public Works Director may request in writing a hearing on such decision within five days of receipt of notification of deficiencies or non-compliance. The request shall be made to the City Administrator who shall conduct the hearing or who shall designate a Hearing Officer.

(2013 Code, § 28-210) (Ord. 14853, passed 2-23-2009)

§ 56.010 STATEWIDE URBAN DESIGN AND SPECIFICATIONS AND STATE'S STORM WATER MANAGEMENT MANUAL.

The city adopts the *Iowa Storm Water Management Manual*.

(2013 Code, § 28-211) (Ord. 14853, passed 2-23-2009)

§ 56.999 PENALTY.

Unless another penalty is expressly provided by this chapter for any particular provision or section, any person violating any provision of this chapter or any rule or regulation adopted herein by reference shall be subject to a municipal infraction. Each day that a municipal infraction occurs and continues to exist constitutes a separate offense and by punished by a penalty as provided in § 10.999 of this code of ordinances.

(2013 Code, § 28-209) (Ord. 14853, passed 2-23-2009; Ord. 14970, passed 11-27-2017)

CHAPTER 57: STREETS AND SIDEWALKS

Section

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GENERAL PROVISIONS

§ 57.001 REMOVAL OF SNOW AND ICE; DEPOSITING ON PRIVATE DRIVE, PARKING SPACE OR IN FRONT OF PRIVATE PROPERTY PROHIBITED.

(A) The abutting property owner is required to remove all accumulations of snow and ice from public sidewalks located upon street and alley terraces and from the public sidewalks located upon his, her or their privately-owned property.

(2013 Code, § 26-1)

(B) It shall be unlawful for any person to push, pile, deposit or leave deposited any snow or frozen materials removed from any private drive or private parking area upon any public street or thoroughfare or upon or in front of the private property or the private drive of another.

(2013 Code, § 26-3)

(Ord. 23, passed 8-14-1950; Ord. 8775, passed 2-28-1955; Ord. 10717, passed 3-23-1965; Ord. 14766, passed 8-8-2005; Ord. 14959, passed 3-13-2017) Penalty, see § 57.999

§ 57.002 RESPONSIBILITY FOR MAINTENANCE.

The owner of any lot or parcel thereof abutting any sidewalk on the city streets in the city shall maintain said sidewalk in state of good repair, free from cracks, holes and unevenness to that the sidewalk does not constitute a safety hazard. A state of sidewalk disrepair is hereby declared a public nuisance. The owner of any lot or parcels who fails to repair said sidewalk shall be liable to any person injured as a result of such failure and shall further save, defend, indemnify and hold harmless the city from and against any claim arising out of the failure to maintain said sidewalk.

(2013 Code, § 26-4) (Ord. 14403, passed 12-14-1992; Ord. 14973, passed 7-9-2018)

§ 57.003 LIABILITY OF ABUTTING PROPERTY OWNERS FOR FAILURE TO MAINTAIN.

Abutting property owners failing to maintain property as required by § 57.002 of this chapter shall be expressly liable for personal and property damages caused by such failure in the maintenance of such property.

(2013 Code, § 26-5) (Ord. 14403, passed 12-14-1992)

§ 57.004 PERIODS OF AMORTIZATION SET FOR PUBLIC IMPROVEMENTS.

(A) The period of amortization for public improvement projects for opening, establishing or grading streets, the construction of portland cement concrete or asphalt concrete street improvements, storm sewers, sanitary sewers, water mains, pedestrian underpasses and overpasses, sewage pumping station, disposal or treatment plants, drainage conduits, channels and levees, street lighting, parking facilities and appurtenant facilities, is hereby established as ten years, to be calculated commencing from the date of adoption by the Council of said city of the resolution accepting the completed public improvements.

(B) The period of amortization, to be computed in the same manner as established in division (A) above, is hereby established as seven years for sidewalks and three years for the repair of street grading, street surfacing with oil, gravel, oil and gravel or chloride, or for the removal of diseased or dead trees.

(C) In any instance where the Council determines that the useful life of a public improvement should be for a different time period than herein above established, the Council may so provide for such period by amendment hereto, prescribing the appropriate amortization period as may be applicable to these specific public improvements.

(2013 Code, § 26-6) (Ord. 13511, passed 3-12-1979)

EXCAVATIONS AND DRIVEWAYS

§ 57.015 EXCAVATION PERMIT REQUIRED.

It shall be unlawful for any person to cut through any paved surface or otherwise dig or excavate or install any substantial device in any part of any street, avenue, terrace or public ground outside of the lot line, for any purpose, without first securing a permit therefor, in writing, from the Director of Public Works/City Engineer.

(2013 Code, § 26-16) (Ord. 24, passed 8-14-1950) Penalty, see § 57.999

§ 57.016 ENTRANCE PERMIT REQUIRED.

(A) It shall be unlawful for any person, firm or corporation to cut or remove any curbing for any purpose or install a driveway or entrance to a property without first securing a written permit therefor from the Director of Public Works/City Engineer.

(B) If the Director of Public Works/City Engineer denies the permit, the applicant may appeal to the City Council by the procedures provided in § 110.003 of this chapter.

(C) Before any permit shall be issued, the applicant therefor shall pay the City Clerk a fee set by resolution.

(2013 Code, § 26-17) (Ord. 24, passed 8-14-1950; Ord. 14228, passed 4-14-1986; Ord. 14609, passed 12-30-1998) Penalty, see § 57.999

§ 57.017 TUNNELING PERMIT REQUIRED.

(A) It shall be unlawful to tunnel under the sidewalk or the curb or the pavement of any street, avenue or public highway, except where permitted by the Director of Public Works/City Engineer, and no such permit shall be granted for a tunnel more than 18 inches under the curb and paving.

(B) Permit fee to be set by resolution.
(2013 Code, § 26-18) (Ord. 24, passed 8-14-1950) Penalty, see § 57.999

§ 57.018 TRANSFER OF PERMIT PROHIBITED.

No permit required by or issued under the provisions of this chapter shall be assigned or transferred, and the work contemplated therein shall be done by or under the personal supervision of the person to whom the permit is issued.
(2013 Code, § 26-19) (Ord. 24, passed 8-14-1950)

§ 57.019 CUTTING PAVEMENT AND REFILLING EXCAVATION.

(A) Wherever it is necessary to go under the pavement for any purpose, the pavement shall be replaced in accordance with the city's *Standard Specifications for Street Excavation and Pavement Restoration*.

(B) Whenever a permit is required to make an excavation through the paved surface of any public street, avenue or public way and the same has been refilled as required by ordinance for resurfacing the area for such excavation, the City Engineer shall be notified thereof.

(C) The permit holder shall be responsible for all costs to complete the surfacing of the excavation.
(2013 Code, § 26-20) (Ord. 24, passed 8-14-1950; Ord. 9091, passed 8-27-1956; Ord. 10292, passed 7-16-1962)

§ 57.020 GUARDING EXCAVATIONS.

(A) All openings in the street shall be made in such manner as will cause the least inconvenience to the public and permit the passage of water along the gutters.

(B) All openings and excavations made in any street, avenue, terrace or public ground outside the lot line or next to the sidewalk or footway on private property shall be protected by barricades and signs meeting the Federal Highway Administration's *Manual on Uniform Traffic Control Devices For Streets and Highways* and the city's standards.
(2013 Code, § 26-22) (Ord. 9091, passed 8-27-1956)

§ 57.021 PERMIT APPLICATION.

Before any permit is issued under provisions of this subchapter, an application shall be filed with the Director of Public Works/City Engineer stating the place; the amount and purpose of the contemplated work; the time when the work is proposed to be done; the time within which it will be completed; and in what street, avenue, alley or public place such excavation is to be made or work done, and its location thereon. Each application must contain a stipulation that the applicant will, within the time limit therein, fill any excavation or trench in a proper and workmanlike manner and will restore the street, avenue, alley or public place to its proper condition, and that if the applicant fails or neglects to fill such excavation or trench properly and restore the street, avenue, alley or public place to its proper condition within such time, the Director of Public Works/City Engineer may do so or cause the work to be done and charge the applicant with the cost and expense thereof.

(2013 Code, § 26-23) (Ord. 24, passed 8-14-1950)

§ 57.022 PERMIT QUALIFICATIONS.

No permit shall be granted to any person for any purpose contemplated under § 57.015 of this chapter, unless such person has been authorized by the City Council to do excavating within the city limits and has complied with the requirements of the City Council in granting such authorization.

(2013 Code, § 26-24) (Ord. 24, passed 8-14-1950)

§ 57.023 BOND.

(A) Except as otherwise provided herein, no permit shall be granted under this subchapter unless the applicant shall have on file in the office of the City Clerk a bond in the penal sum of \$1,000, in form and with surety approved by the City Council. It is particularly and especially provided that such bonds executed shall, in addition to the specific terms and conditions thereof, include and be construed as undertaking that the principal will faithfully perform each and every duty required of him or her under state laws, city ordinances and the rules, regulations and specifications of the City Council; shall properly complete all work within the time specified in any permit issued to him or her; shall pay all fines imposed on him or her on account of any act or omission growing out of or in connection with the work for which such permit was issued; shall pay all costs and expense of completing any work not properly completed by him or her within the time limit of his or her permit and all items charged against him or her on account thereof; shall refill all trenches and excavations made under any permit issued to him or her as provided in this subchapter to the approval of the Director of Public Works/City Engineer; shall restore the street, pavement, sidewalk, parking, terrace or other portion of any public place properly and as provided in this subchapter and to as good condition as before starting the work; and shall maintain all refills and restorations made by him or her for a period of four years. If any trench, excavation or restoration settles, sinks or causes any irregularity in the surface of the street, avenue, alley or public place within a period of four years, he or she will immediately remedy such condition as directed by

the Director of Public Works/City Engineer. If he or she fails to do the work within five days after notice thereof is given to or served on him or her or the surety on such bond, the Director of Public Works/City Engineer shall cause the work to be done and such principal will pay the cost and expense thereof.

(B) Such bond will continue in force until the completion of all work covered or contemplated in any permit issued while it is in effect.

(C) This bond requirement shall not apply to repairs being made at a residence by its owner or co-owner who is not using the services of a licensed contractor to perform the work.

(D) Licensed contractors may fulfill the bonding requirements of this section on individual residential projects of not more than \$10,000 gross cost, to be performed by that contractor within the city limits by providing evidence to the City Clerk of a bond from an approved surety providing coverage for the particular calendar year during which all work will be completed.

(2013 Code, § 26-25) (Ord. 24, passed 8-14-1950; Ord. 14777, passed 11-14-2005; Ord. 14928, passed 11-11-2013)

§ 57.024 AUTHORITY OF CITY TO CANCEL PERMIT.

Without canceling or affecting any bond, policy or obligation provided for in § 57.023 of this chapter, the City Council may, for any cause that it deems sufficient, cancel the authority granted under § 57.022 of this chapter.

(2013 Code, § 26-27) (Ord. 24, passed 8-14-1950)

SIDEWALKS

§ 57.035 PURPOSE.

The purpose of this subchapter 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.

(Ord. 14973, passed 7-9-2018)

§ 57.036 DEFINITIONS.

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

BROOM FINISH. A sidewalk finish that is made by sweeping the sidewalk when it is hardening.

DEFECTIVE SIDEWALK. Any public sidewalk exhibiting one or more of the following characteristics:

- (1) Vertical separations equal to three-fourths inch or more;
- (2) Horizontal separations equal to one inch or more.
- (3) Holes or depressions equal to three-fourths inch or more and at least four inches in diameter;
- (4) Spalling over 50% of a single square of the sidewalk with one or more depressions equal to one-half inch or more;
- (5) Spalling over less than 50% of a single square of the sidewalk with one or more depressions equal to three-fourths inch or more;
- (6) A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot;
- (7) A sidewalk with any part thereof missing to the full depth; or
- (8) A change from the design or construction grade equal to or greater than three-fourths inch per foot.

ESTABLISHED GRADE. That grade established by the city for the particular area in which a sidewalk is to be constructed.

ONE-COURSE CONSTRUCTION. The full thickness of the concrete is placed at one time, using the same mixture throughout.

OWNER. 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.

PORTLAND CEMENT. Any type of cement except bituminous cement.

SIDEWALK. All permanent public walks in business, residential or suburban areas.

SIDEWALK IMPROVEMENTS. 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.

WOOD FLOAT FINISH. A sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.
(Ord. 14973, passed 7-9-2018)

§ 57.037 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 30 days, and if such action is not completed within such time, 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.
(Ord. 14973, passed 7-9-2018)

Statutory reference:

Similar provisions, see I.A.C. § 364.12(2)(d) and (e)

§ 57.038 SIDEWALK CONSTRUCTION ORDERED.

The Council may order the construction of permanent or temporary 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 I.A.C. Ch. 384.

(Ord. 14973, passed 7-9-2018)

Statutory reference:

Similar provisions, see I.A.C. § 384.38

§ 57.039 NEW SIDEWALKS REQUIRED.

A public sidewalk shall be constructed adjacent to any lot platted prior to January 1, 2001, at the time any of the following occur:

- (A) Construction of a new building is completed upon a vacant lot;
 - (B) Construction or reconstruction of a building upon the lot which amounts to an increase in value of 50% or more of an existing structure;
 - (C) Reconstruction of a building which has incurred 50% or more in damage;
- and
- (D) The property owner shall pay for all costs for constructing all sidewalks required under this section.

(2013 Code, § 26-44) (Ord. 14668, passed 2-26-2001; Ord. 14973, passed 7-9-2018)

§ 57.040 DEFERMENTS OF NEW SIDEWALK CONSTRUCTION.

(A) The construction of a sidewalk, as required by § 57.039 of this subchapter may be deferred for a specified period of time in a given instance. Applications for deferments must be submitted to the Housing and Community Development Department, along with the established fee, as set by resolution. A deferment will be recommended by staff if an applicant demonstrates one or more of the following criteria have been met:

(1) Where the location of the proposed sidewalk is not adjacent to a street which has or will have curb and gutter;

(2) Where the location of the proposed sidewalk has grade and drainage problems which would significantly interfere with the construction of the sidewalk at that location; and

(3) Where the location of the proposed sidewalk is on non-residential or non-retail property adjacent to an existing street with curb and gutter, and grade and drainage problems would not significantly interfere with the construction of its sidewalk at that location, and the following conditions are met:

- (a) No pedestrian generators exist in this location; or
- (b) The unique use of the property in conjunction with sidewalks or bike paths near the location allow for alternate pedestrian routes, unless the proposed sidewalk is needed to connect area residential property to other sidewalks in the area.

(B) Should a deferment not be granted by the city staff, the applicant can appeal this denial to the City Council.
(Ord. 14973, passed 7-9-2018)

§ 57.041 DEFERMENT EXPIRATION AND REPEAL.

Deferments will expire automatically if the street adjacent to the deferred location is improved and curb and gutter is installed. If conditions supporting the deferment change, the City Zoning Officer may administratively repeal the deferment.
(2013 Code, § 26-45) (Ord. 14779, passed 3-13-2006; Ord. 14973, passed 7-9-2018)

§ 57.042 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. A written application for such permit shall be filed with the city and shall be accompanied by a permit fee as set forth and established by resolution of the City Council.
(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

§ 57.043 SIDEWALK STANDARDS.

(A) Sidewalks repaired, replaced or constructed under the provisions of this subchapter shall be constructed in accordance with the city's standard specifications. All such work shall be done under the direction and supervision of and subject to inspection and approval of the Public Works Director. If such work does not comply with the provisions of this chapter, the Public Works Director, after notice to the property owner, shall cause the sidewalks to be constructed in the proper manner and assess the cost for such work against the abutting property for collection in the same manner as a property tax.

(B) 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 concrete shall be the only cement used in the construction and repair of sidewalks. The cement shall be standard gray color. Request to use any other color must be approved by the City Engineer.

(2) *Construction.* Sidewalks shall be of one-course construction, using State Department of Transportation Class C portland cement concrete.

(3) *Sidewalk base.* Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four-inch sub-base of compact, clean, coarse gravel, sand or cinders shall be laid. The adequacy of the soil drainage is to be determined by the city.

(4) *Sidewalk bed.* The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

(5) *Length, width and depth.* Length, width and depth requirements are as follows:

(a) Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length;

(b) Business district sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length and width unless the City Engineer so directs; and

(c) Driveway areas shall be not less than six inches in thickness.

(6) *Grade.* The City Engineer shall establish the sidewalk grade.

(7) *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 inch above the curb for each foot between the curb and the sidewalk.

(8) *Slope.* All sidewalks shall have a maximum slope of 2% towards the curb.

(9) *Finish.* All sidewalks shall be finished with a broom finish. All walks must be true to grade.

(10) *Ramps for persons with disabilities.* There shall be not less than two 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 48 inches wide, shall be sloped at not greater than one inch of rise per 12 inches lineal distance, with a maximum cross slope of 2%. Each curb ramp shall include installation of detectable warning panels with truncated domes. All curb ramp installations should comply with the Iowa SUDAS Standard Specifications, Division 7, Section 7030.
(Ord. 14973, passed 7-9-2018)

§ 57.044 LOCATION.

Residential sidewalks shall be located within the inner edge (edge nearest the abutting private property) one foot outside the property line, unless the Council establishes a different distance due to special circumstances.

(Ord. 14973, passed 7-9-2018)

§ 57.045 BARRICADES AND WARNING LIGHTS.

Whenever 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 traffic control barricades, and to keep them lit during the entire night and to maintain said barricades both at night and in the daytime

to secure the same as stated in § 57.020 of this chapter. 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 in this subchapter.
(Ord. 14973, passed 7-9-2018)

§ 57.046 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.
(Ord. 14973, passed 7-9-2018)

§ 57.047 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.
(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

§ 57.048 OPENINGS AND ENCLOSURES.

It is unlawful for a person to:

- (A) *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;
- (B) *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; and/or
- (C) *Protect openings.* Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

§ 57.049 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.

(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

§ 57.050 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.

(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

§ 57.051 DEFACING.

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

(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

Statutory reference:

Similar provisions, see I.A.C. § 716.1

§ 57.052 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.

(Ord. 14973, passed 7-9-2018) Penalty, see § 57.999

Statutory reference:

Similar provisions, see I.A.C. § 364.12(2)

§ 57.053 AUTHORITY OF CITY TO REPAIR BROKEN, DEFECTIVE SIDEWALKS; STATEMENT OF COSTS.

The nuisance officer or such other city officer as may be designated by the Mayor or City Council may cause to be repaired, with or without notice to the property owner, all broken or defective sidewalks when in an unsafe, broken or defective condition, and he or she shall return to the Council an itemized and verified statement of expenditures of labor and materials used in making such repairs and the description of the lot or parcel of ground abutting on which such repairs have been made.

(2013 Code, § 26-51) (Ord. 23, passed 8-14-1950)

§ 57.054 COSTS OF REPAIRS AS TAX; ASSESSMENTS; OBJECTIONS.

(A) Upon the filing of the verified statement required by § 57.053 of this chapter, the City Clerk shall cause a notice of such facts to be given to all persons liable for such expense, either by personal service, by mailing a notice to the last known address of the person liable for taxes assessed against such property or by publication once in a newspaper of general circulation in the city, which notice shall contain a statement of the character of the work performed, a description of the property affected,

and the amount returned against such lot or parcel of ground, together with a statement of the time and place at which objections to such assessment may be made, which time shall be not less than ten days after the giving of notice.

(2013 Code, § 26-52)

(B) At the time and place designated in notice given pursuant to division (A) above, the City Council shall meet, hear and consider all objections made to the whole or any part of such assessment and shall correct any errors or omissions therein, and after such consideration the City Council shall adopt the list, as corrected, as the amounts to be assessed against the property therein described.

(2013 Code, § 26-53)

(D) After the adoption of the corrected list as provided in division (C) above, the City Council shall, by resolution, assess the respective amounts against each lot or parcel of ground, and all such assessments or any part thereof which shall remain unpaid shall, before September 1 of each year, be certified by the City Clerk to the County Auditor as a special tax against the lots or parcels of ground.

(2013 Code, § 26-54)

(Ord. 23, passed 8-14-1950)

§ 57.055 COMPLIANCE REQUIRED.

It shall be unlawful for any person, firm or corporation to construct or reconstruct any public sidewalk in the city, except in full compliance with all of the requirements of this subchapter.

(2013 Code, § 26-55) (Ord. 23, passed 8-14-1950) Penalty, see § 57.999

§ 57.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999(A) of this code of ordinances.

(B) Any person violating any of the pertinent provisions of §§ 57.035 through 57.055 of this chapter shall be punished by a fine pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 26-55) (Ord. 22, passed 8-14-1950; Ord. 14970, passed 11-27-2017)

CHAPTER 58: VEGETATION

Section

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- 58.001 Purpose
- 58.002 Removal of weeds, vines and brush
- 58.003 Definitions

Trees

- 58.015 Injuring or damaging
- 58.016 Fastening materials
- 58.017 Planting in public alleys and utility easements
- 58.018 Public utilities
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- 58.020 Certain species prohibited
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- 58.025 Trimming and removal of hazardous terrace trees
- 58.026 Removal and trimming on private property
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- 58.028 Barricades and other protective devices required

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GENERAL PROVISIONS

§ 58.001 PURPOSE.

(A) It is the policy of the city to regulate and control the planting, removal, pruning and protection of trees and other vegetation within streets, highways and alley rights-of-way and public park areas within the boundaries of the city; to eliminate and guard against dangerous conditions which may result in injury to persons using the public areas of the city; to prevent damage to any public sewer or water main, street, sidewalk or other public property; to protect trees located in public areas from undesirable and unsafe planting, removal, pruning and protection practices; and to guard all trees within the public areas of the city against the spread of disease or pests. The provisions of this chapter shall apply to all trees, shrubs, weeds, vines and brush planted in or upon any public area and in certain instances on private property within the city and any existing trees that violate other sections of this chapter.

(B) It is also the intent of this chapter to maintain all public and private areas in the city in such a manner that they are free of weeds, vines and brush; to eliminate and guard against dangerous conditions which may cause injury or illness to persons using the public areas; to promote and enhance the beauty of the city; and to guard against pestilence and widespread weed invasion of any area of the city. State legislation or State Department of Transportation rules take precedence over this chapter if along a state-designated highway.
(2013 Code, § 27-1) (Ord. 14429, passed 6-14-1993)

§ 58.002 REMOVAL OF WEEDS, VINES AND BRUSH.

All areas of the city are to be kept free of any noxious weeds and shall also be kept free of any other weeds, vines or brush for health and safety reasons.
(2013 Code, § 27-2) (Ord. 14429, passed 6-14-1993)

§ 58.003 DEFINITIONS.

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

ALLEY. A thoroughfare through the middle of a block giving access to the rear of a building.

PARK. Any property owned in whole or in part by the city used in whole or in part for recreational purposes, wildlife purposes or other municipally-owned public purpose related to recreation or wildlife, but does not include parkings or terraces or municipal parking lots.

PROPERTY OWNER. The contract purchaser if there is one of record, otherwise the record holder of legal title.

PUBLIC AREA. Parks and other lands owned or leased by the city and all terraces along all streets, highways, boulevards and alleys.

SHRUB. A woody plant with several stems and usually with a low mature height of eight feet or less.

STREET INTERSECTION. The intersection of the public street right-of-way lines of the two intersecting streets. On streets that have sidewalks, this would be the intersection of the inside edges on the private property side of the sidewalks.

TERRACE. The city-owned street right-of-way or street easement area between the property line and the outside edge of any street, road or boulevard in the city, including the sidewalk if present.

TREE. Any woody perennial plant of any age with a main trunk and many branches, and includes living or dead trees and standing or fallen trees.
(2013 Code, § 27-3) (Ord. 14429, passed 6-14-1993)

TREES

§ 58.015 INJURING OR DAMAGING.

(A) No person shall in any public area of the city break, injure, mutilate, kill or destroy any tree or shrub; permit any animal under his or her control to do so; permit any fire to injure any portion of any tree or shrub; or permit any toxic chemicals or materials to seep, drain, be emptied on or otherwise enter into any tree or shrub.

(B) It shall be unlawful for any person to cut, damage, carve, transplant or remove any tree, or injure the bark of any tree located in a park, except for authorized city personnel in the performance of his, her or their duties.

(C) During building operations, commercial promotions or public promotions, the builder or sponsor shall erect suitable protective barriers around public trees and shrubs that may be injured.

(2013 Code, § 27-15) (Ord. 14429, passed 6-14-1993) Penalty, see § 58.999

§ 58.016 FASTENING MATERIALS.

No person shall fasten any sign, rope, wire or other materials to or around or through any trees or shrubs in any public area, except in emergencies such as storms or accidents.

(2013 Code, § 27-16) (Ord. 14429, passed 6-14-1993) Penalty, see § 58.999

§ 58.017 PLANTING IN PUBLIC ALLEYS AND UTILITY EASEMENTS.

It shall be unlawful to plant any tree or other woody plant material within any platted alley right-of-way or dedicated utility or walkway easement area within the city.

(2013 Code, § 27-17) (Ord. 14429, passed 6-14-1993) Penalty, see § 58.999

§ 58.018 PUBLIC UTILITIES.

Public utility work affecting trees or shrubs, including cutting, trimming, pruning and the use of approved growth inhibitors, shall be limited to the actual necessities or protection of the services of the company and such work shall be done in a professional manner and in accordance with proper arboricultural standards. Trees growing on private land, but encroaching public right-of-way or utility easements, may be trimmed for the protection of the services of the company.

(2013 Code, § 27-18) (Ord. 14429, passed 6-14-1993)

§ 58.019 PLANTING PERMIT.

(A) No person shall plant a tree in a terrace area unless he or she has completed a planting permit application at the Parks and Recreation Office and has been issued a permit by the City Parks and Recreation Director or his or her designee.

(B) (1) Trees shall be subject to conditions of the permit. Conditions of the permit shall include a requirement for diversity of species withal, the planting area, as well as other conditions as may be provided elsewhere in this subchapter.

(2) Whenever a tree is planted in conflict with the provisions of the permit or without obtaining a permit, it shall be lawful for city staff to remove or cause removal of the tree.

(3) The cost of the removal of such tree may be charged to the property owner responsible for the planting.

(2013 Code, § 27-19) (Ord. 14429, passed 6-14-1993; Ord. 14774, passed 10-24-2005; Ord. 14947, passed 3-14-2016)

§ 58.020 CERTAIN SPECIES PROHIBITED.

(A) (1) It shall be unlawful to plant any tree species on or adjacent to any street, terrace, avenue or highway in the city that has been identified on a list of prohibited species compiled by city staff. The list shall be kept on file at the Parks and Recreation Office and on the city website. The City Council may issue a special decorative planting permit for planting evergreen and deciduous shrubs with a mature height greater than 12 inches within the terrace area for decorative purposes.

(2) Each request will be reviewed upon its own merits, and the proposed plantings at mature height shall not interfere with pedestrian and vehicular safety or the free use of the street or sidewalk.

(B) It shall also be unlawful to plant any tree species that bears fruit, except for male sterile varieties, on a city terrace or on private property in a location where the tree will overhang a sidewalk.

(C) Any plant species prohibited by this section, but in place on the effective date of Ord. 14429, need not be removed by virtue of its mere existence unless interference with other sections of this chapter so requires.

(D) A list of tree species recommended for public right-of-way plantings will be compiled by city staff and kept on file at the Parks and Recreation Office and on the city website.

(2013 Code, § 27-20) (Ord. 14429, passed 6-14-1993; Ord. 14774, passed 10-24-2005; Ord. 14947, passed 3-14-2016) Penalty, see § 58.999

§ 58.021 SPACING AND PLACEMENT IN TERRACE AREAS.

(A) All trees planted on or adjacent to any street, highway, terrace or avenue in the city shall be planted in a location that is midway between the outer line of the sidewalk and the curb where the curb line is established or midway between the proposed sidewalk and designed curb locations as established by the Director of Public Works/City Engineer where no sidewalk or curb is established. No tree shall be planted nearer than three feet to the curb or outer sidewalk line. On terraces 14 feet wide or greater, trees shall be planted seven feet from the outside edge of the sidewalk.

(B) (1) Trees planted on or adjacent to a highway shall be planted ten feet back from the back of the curb line.

(2) Other special considerations do exist and a special permit must be secured from the state's Department of Transportation; contact the local state's Department of Transportation Engineer. Tree spacing for trees included in the listing of recommended tree for terrace areas less than eight feet in width as specified under §

58.020 of this chapter shall be planted no closer than 20 feet from one another, nor closer than 30 feet to a large tree.

(3) Large trees such as those listed in the recommended tree species for terrace areas of eight feet or more in width shall be planted no closer than 40 feet from one another.

(4) Trees shall be planted no closer to a utility pole than a distance equal to the mature spread of the tree species being planted.

(2013 Code, § 27-21) (Ord. 14429, passed 6-14-1993)

§ 58.022 PLANTING DISTANCE FROM STREET INTERSECTIONS AND FROM DRIVEWAYS.

No tree shall be planted closer than 30 feet to a street intersection. No tree shall be planted closer than ten feet to a driveway or alley in residential terrace areas of the city. Spacing of trees from commercial driveways shall be judged on an individual basis. (2013 Code, § 27-22) (Ord. 14429, passed 6-14-1993) Penalty, see § 58.999

§ 58.023 LOCATION OF UNDERGROUND UTILITIES.

Before any digging is done in terrace areas, all underground utilities shall be located by the proper utility service companies, in particular mechanical diggers. Call 1-800-292-8989, 48 hours before planting to verify all underground utilities located in the terrace area by the proper utility companies.

(2013 Code, § 27-23) (Ord. 14429, passed 6-14-1993)

§ 58.024 UNAUTHORIZED TRIMMING PROHIBITED; PERMIT REQUIRED.

It shall be unlawful to trim or cut in any manner, other than that otherwise allowed in this subchapter, any tree on any terrace, street, avenue and highway or in any public place in the city without the person receiving a permit from the parks and recreation office. Property owners, agents or occupants may trim limbs or branches not exceeding six inches in diameter from trees on terrace areas adjacent to their property without a written permit. Such cutting or trimming shall conform to the arboricultural specifications and standards of practice adopted by the city staff.

(2013 Code, § 27-24) (Ord. 14429, passed 6-14-1993; Ord. 14947, passed 3-14-2016)

§ 58.025 TRIMMING AND REMOVAL OF HAZARDOUS TERRACE TREES.

(A) The city shall be responsible for removing dead or diseased trees from all public areas within the city. The abutting property owner, agent or occupant shall be responsible for trimming and maintaining the trees on the terrace abutting his, her or their property. Trees shall be so trimmed that the overhanging branches shall be at least

15 feet above the surface of the street and at least eight feet above the surface of the sidewalk so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public, taking into consideration tree maturity and size. Branches or limbs over six inches in diameter or trees on terrace areas shall only be removed by the city, a public service company or a person or firm licensed under § 120.001 of this code of ordinances upon a permit issued by City Clerk. No permit shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors.

(B) The city may serve notice as per section § 58.027 of this chapter to the abutting property owner, agent or occupant to trim or otherwise maintain the trees on the abutting terrace or remove trees, other than dead or diseased trees, that are not in compliance with the provisions of this subchapter. If the abutting property owner, agent or occupant does not perform the required action required within a reasonable time, the city may perform the required action and assess the costs against the abutting property as per § 58.027 of this chapter.

(C) The city shall have the authority to trim or remove any tree, shrub or other plant material planted on any city terrace for non-compliance of this subchapter. This work shall be done at city expense if notice is not given to the abutting property owner. (2013 Code, § 27-25) (Ord. 14429, passed 6-14-1993)

§ 58.026 REMOVAL AND TRIMMING ON PRIVATE PROPERTY.

(A) The property owner, agent or occupant of any lot or parcel of land shall keep the trees on his or her property so trimmed that the overhanging branches shall be at least 15 feet above the surface of the street and at least eight feet above the surface of the sidewalk so as not to interfere with the street lighting or the free and safe use of the street and sidewalk by the public and shall be kept free of dead limbs and branches, taking into consideration the tree maturity and size.

(B) Trees, branches or limbs over 12 inches in diameter on private property shall only be removed by a person or firm licensed under § 120.001 of this code of ordinances unless the tree canopy is inside the property. A licensed, bonded tree firm or person should do felling of all trees on private property.

(C) The city shall have the right to trim or prune any tree or shrub on private property without notice when it overhangs public property and interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign. The city may serve notice on the abutting property owner as per § 58.027 of this chapter to remedy the situation and assess the cost to the property. (2013 Code, § 27-26) (Ord. 14429, passed 6-14-1993)

§ 58.027 NOTICE AND ASSESSMENT OF COSTS TO PROPERTY OWNERS.

(A) If the property owner does not perform an action required under this subchapter within a reasonable time after notice, the city may perform the required action and assess the costs against the property for collection in the same manner as a

property tax. Notice may be by certified mail or other service to the address of the property owner as well as the occupant of the premises as shown by the records of the County Auditor and shall state the time within which action is required.

(B) In an emergency, the city may perform any action which may be required under this subchapter without prior notice if it is deemed an imminent hazard to the safety and well-being of the public and assess the costs as provided in this section after notice to the property owner and hearing. All action taken by the city without notice to the property owner is done at city expense and shall not be assessed to the property owner.

(2013 Code, § 27-27) (Ord. 14429, passed 6-14-1993)

§ 58.028 BARRICADES AND OTHER PROTECTIVE DEVICES REQUIRED.

When necessary for the protection of the public, guards, barricades or other protective devices or warnings shall be maintained on any sidewalk, street or other public places where trees are being trimmed or removed. Barricades and other protective devices shall meet the standards set forth by the Public Works Department. Traffic on any street shall not be barricaded without first obtaining permission therefor from the Public Works Department and notifying the Fire Department, Police Department and the ambulance service of the closing and again when the street is reopened.

(2013 Code, § 27-29) (Ord. 14429, passed 6-14-1993)

§ 58.999 PENALTY.

Violation of any section of this chapter shall be deemed to be a municipal infraction and be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 27-30) (Ord. 14429, passed 6-14-1993; Ord. 14970, passed 11-27-2017)

CHAPTER 59: MAILBOXES

Section

- 59.001 Purpose
- 59.002 Definitions
- 59.003 Visibility; obstruction
- 59.004 Cluster-style mailbox required in new developments
- 59.005 Cluster-style mailbox requirements
- 59.006 Curbside mailbox requirements
- 59.007 Custom-built mailbox requirements
- 59.008 Responsibilities of property owner

§ 59.001 PURPOSE.

The city's right-of-way is held by the city primarily for the purpose of pedestrian and vehicular passage and for the city's provision of essential public safety services, including police, fire and emergency medical response services, and public health services, including sanitary sewer, water, and storm drainage. The purpose of this chapter is to provide standards for mailboxes in order to maintain the safety and the visual character of the city's right-of-way.

§ 59.002 DEFINITIONS.

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

BREAKAWAY SUPPORT. A supporting post which shall be no larger than a four-inch by four-inch wood post or a metal post with a strength no greater than a two-inch diameter schedule 40 steel pipe and which is buried no more than 24 inches deep. Such a support post shall not be set in concrete unless specifically designed as a breakaway support system as defined in *A Guide for Erecting Mailboxes on Highways* published by the American Association of State Highway and Transportation Officials, May 24, 1984 (ASHTO).

CLEAR ZONE. An unobstructed flat area adjacent to the traveled portion of a roadway that is used for the recovery of errant vehicles.

CLUSTER-STYLE MAILBOX. A style whereby mailboxes, meeting the specifications of the United States Postal Service (USPS) with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," are assembled and grouped together on a single area of land so that they are regarded as one unit. Cluster-style mailboxes must be manufactured cluster-style mailboxes approved by both the city and the USPS.

CURBSIDE MAILBOX. A mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the United States Postal Service (USPS) with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended or used for the collection of mail and is to be served by a mail carrier from a vehicle.

CUSTOM-BUILT MAILBOX. A mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a **CURBSIDE MAILBOX** and **BREAKAWAY SUPPORT**.

§ 59.003 VISIBILITY; OBSTRUCTION.

All mailboxes must be erected:

(A) Away from the intersection of any street and, in no case closer than 75 feet measured from the centerline of the intersecting street, in order to prevent obstruction of free and clear vision; and

(B) Away from any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic control device.

§ 59.004 CLUSTER-STYLE MAILBOX REQUIRED IN NEW DEVELOPMENTS.

All new residential or commercial developments constructed after the enactment of the regulations contained in this chapter, except developments in R-1 and R-2 Residence Districts, and which are situated on any public street, avenue, or other roadway that is maintained by the city and receive curbside delivery of mail shall have cluster-style mailboxes. Any housing development constructed and already receiving mail service before the regulations in this chapter are enacted is not required to have cluster-style mailboxes.

§ 59.005 CLUSTER-STYLE MAILBOX REQUIREMENTS.

(A) Cluster-style mailboxes serving housing developments situated on any public street or roadway shall be located between the sidewalk and curb, outside of the three-foot clear zone. Cluster-style mailboxes shall not be installed anywhere within a cul-de-sac bulb. Cluster-style mailboxes shall have a four-foot concrete access from the public street and the public sidewalk. The location of the cluster-style mailboxes shall not exceed 300 feet from the property line of those residents served by that cluster-style mailbox. Cluster-style boxes shall be located on property lines on the same side as what the future no-parking areas will be. The location of the cluster-style mailbox is to be approved by the city and by the USPS.

(B) The cost of installation, including but not limited to box units and concrete pad, shall be borne by the developer, and subsequent maintenance shall be carried out by the USPS.

(C) No driveway or street access shall be constructed within five feet of a cluster-style mailbox.

Penalty, see § 10.999

§ 59.006 CURBSIDE MAILBOX REQUIREMENTS.

While curbside mailboxes may be installed in developments constructed and already receiving mail service before the adoption of this chapter, the mailbox owner must comply with the following installation requirements:

(A) The bottom of the mailbox shall be 42 inches from the top of curb. On streets without curbs, the bottom of the mailbox shall be 48 inches from the edge of pavement, as defined by USPS installation requirements.

(B) Lateral placement of the mailbox shall be six inches to eight inches from the face of the curb, as defined by USPS installation requirements.

(C) The mailbox support post shall be of a “breakaway support” design, as defined by AASHTO.

(D) The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.

(E) Property owner shall be responsible for the maintenance of the curbside mailbox.

§ 59.007 CUSTOM-BUILT MAILBOX REQUIREMENTS.

A custom-built mailbox may be installed in developments constructed and already receiving mail service before the adoption of this chapter if an application for approval of a custom-built mailbox is submitted to the city for review and is approved. A custom-built mailbox must conform to the following requirements and the rules set forth in the application:

(A) The structure supporting the mailbox shall be at least 12 inches from the back of curb.

(B) The mailbox structure shall not exceed the dimensions of two feet in width, two feet in depth and five feet in height.

(C) The mailbox structure shall be located on a concrete pad, two feet six inches wide, two feet six inches deep and four inches thick. The mailbox structure shall not be permanently affixed to the concrete pad in an attempt to make structure rigid.

(D) The local postmaster shall approve and sign off on the application before submittal to the city.

(E) Property owner shall be responsible for the maintenance of the custom-built mailbox. If the mailbox is damaged beyond use by the city, a standard curbside mailbox and breakaway post as defined in this chapter will be provided or the property owner can be reimbursed up to a maximum replacement amount set by Council in a fee schedule. If the property owner performs the replacement, reimbursement will not exceed the established cost for a standard curbside mailbox and breakaway post. Property owner must submit an application for a custom-built mailbox with the city prior to making any needed repairs.

§ 59.008 RESPONSIBILITIES OF PROPERTY OWNER.

Any type of mailbox located in the city right-of-way is subject to damage or destruction, at any time, as a result of the city or a person with a utility easement entering upon the city right-of-way to construct, repair or maintain the utilities located in the city right-of-way or as a result of the city engaging in activities to maintain the public street or right-of-way, such as snow removal, pavement repair or street cleaning. If a curb side or cluster-style mailbox located in the city right-of-way is damaged during such activities, the city or the utility that damaged the mailbox shall reimburse the property owner up to a maximum replacement amount set by Council in a fee schedule for the cost of a mailbox of the same design, if it has been approved for installment by the USPS with the proper markings inscribed “U.S. Mail” and “Approved by the Postmaster

General,” if it is still available for purchase and complies with this chapter, and for the cost of the installation of said mailbox.

TITLE VII: TRAFFIC CODE

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- 71. TRAFFIC REGULATIONS
- 72. PARKING RULES
- 73. RECREATIONAL VEHICLES
- 74. PUBLIC TRANSPORTATION
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CHAPTER 70: GENERAL PROVISIONS

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ADMINISTRATION AND ENFORCEMENT

§ 70.001 DEFINITIONS.

For the purpose of this traffic code, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any term not defined in this section or elsewhere in this code shall have the meaning assigned to it by I.C.A. § 321.1, except where the context clearly indicates a different meaning.

ALLEY. A thoroughfare laid out, established and platted as such, by constituted authority.

AUTHORIZED EMERGENCY. Vehicles of the Fire Department; police vehicles, ambulances and emergency vehicles owned by the United States, the state or any subdivision of the state or any municipality therein; and privately-owned ambulances and fire, rescue or disaster vehicles as are designated or authorized by the state's Director of Transportation, under I.C.A. § 321.451.

BUSINESS DISTRICT. The territory contiguous to and including a highway when buildings in use for business occupy 50% or more of the frontage thereon for a distance of 300 feet or more.

CAR or AUTOMOBILE. A motor vehicle designed primarily for carrying nine passengers or less, excluding motorcycles and motorized bicycles.

CHAUFFEUR. A person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or a person who operates a truck tractor, road tractor or a motor truck that has a gross vehicle weight rating exceeding 16,000 pounds. A person is not a **CHAUFFEUR** when the operation of the motor vehicle, other than a truck tractor, by the owner or operator is occasional and merely incidental to the owner's or operator's principal business. A person is not a **CHAUFFEUR** when the operation is by a volunteer firefighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer firefighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the firefighter or operator shall be considered to be receiving no compensation and classified as a volunteer. If authorized to transport inmates, probationers, parolees or work releasees by the Director of the state's Department of Corrections or the Director's designee, an employee of the state's Department of Corrections or a District Department of Correctional Services is not a **CHAUFFEUR** when transporting the inmates, probationers, parolees or work releasees. A farmer or the farmer's hired help is not a **CHAUFFEUR** when operating a truck, other than a truck tractor, owned by the farmer and used exclusively in connection with the transportation of the farmer's own products or property. If authorized to transport patients or clients by the Director of the Department of Human Services or the Director's designee, an employee of the Department of Human Services is not a **CHAUFFEUR** when

transporting the patients or clients in an automobile. A person is not a **CHAUFFEUR** when the operation is by a home care aide in the course of the home care aide's duties. If authorized to transport students or clients by the Superintendent of the state's Braille and Sight Saving School or of the State School for the Deaf, or the Superintendent's respective designee, an employee of the state's Braille and Sight Saving School or the State School for the Deaf is not a **CHAUFFEUR** when transporting the students or clients.

COMBINATION or COMBINATION OF VEHICLES. A group consisting of two or more motor vehicles, or a group consisting of a motor vehicle and one or more trailers, semi-trailers or vehicles, which are coupled or fastened together for the purpose of being moved on the highways as a unit.

CROSSWALK. The portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DEALER. Every person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered under this chapter and who has an established place of business for such purpose in the state.

DRIVER. Every person who drives or is in actual physical control of a vehicle.

ESSENTIAL PARTS. All integral and body parts of a vehicle of a type required to be registered under this chapter, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

ESTABLISHED PLACE OF BUSINESS. The place actually occupied either continuously or at regular periods by a dealer or manufacturer where his or her books and records are kept and a large share of the dealer's or manufacturer's business is transacted.

EXPLOSIVE. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that on ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

FARM TRACTOR. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.

FLAMMABLE LIQUID. Any liquid which has a flashpoint of 70°F or less, as determined by a Tagliabue or equivalent closed cup test device.

FOREIGN VEHICLE. Every vehicle of a type required to be registered by law brought into the state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in the state.

FRONTAGE.

(1) **FRONTAGE** occupied by the building means the linear measure of the plot of ground upon which the building is located abutting upon the highway.

(2) **FRONTAGE** on such highway for a distance of 300 feet or more means the total frontage on both sides of the highway for such distance.

GARAGE. Every place of business where motor vehicles are received for housing, storage or repair for compensation.

GROSS WEIGHT. The empty weight of a vehicle, plus the maximum load to be carried thereon. The maximum load to be carried by a passenger-carrying vehicle shall be determined by multiplying 150 pounds by the number of passenger seats carried by such vehicle.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

LANED HIGHWAY. A highway, the roadway of which is divided into three or more clearly marked lanes for vehicular traffic.

MANUFACTURER.

(1) Every person engaged in the business of fabricating or assembling vehicles of a type required to be registered.

(2) It does not include a person who converts, modifies or alters a completed motor vehicle manufactured by another person.

(3) It includes a person who uses a completed motor vehicle manufactured by another person to construct a Class B motor home, as defined in I.C.A. § 321.124.

METAL TIRE. Every tire, the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

MOTOR TRUCK. Every motor vehicle designed primarily for carrying livestock, merchandise, freight of any kind or over nine persons as passengers.

MOTOR VEHICLE. Every vehicle which is self-propelled, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

MOTORCYCLE. Every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground including a motor scooter, but excluding a tractor.

MOTORIZED BICYCLE or MOTOR BICYCLE. A motor vehicle having a saddle or a seat for the use of a rider and designed to travel on not more than three wheels in contact with the ground, with an engine having a displacement no greater than 50 cubic centimeters and not capable of operating at a speed in excess of 25 mph on level ground unassisted by human power.

NON-RESIDENT. Every person who is not a resident of the state.

OFFICIAL TRAFFIC CONTROL DEVICES. All signs, signals, markings and devices not inconsistent with ordinance or law placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

OFFICIAL TRAFFIC CONTROL SIGNAL. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

OPERATOR. Every person who is in actual physical control of a motor vehicle upon a highway.

OWNER. A person who holds the legal title of a vehicle, or if a vehicle is the subject of a security agreement with an immediate right of possession vested in the debtor, such debtor shall be deemed the **OWNER** for the purpose of this chapter.

PEACE OFFICER. Every officer authorized to direct or regulate traffic or to make arrests for violation of traffic regulations in addition to its meaning in I.C.A. § 801.4.

PEDESTRIAN. Any person afoot.

PNEUMATIC TIRE. Every tire in which compressed air is designed to support the load.

PRIVATE ROAD OR DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

RAILROAD. A carrier of persons or property upon cars, operated upon stationary rails.

RAILROAD SIGN OR SIGNAL. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

RAILROAD TRAIN. An engine or locomotive, with or without cars coupled thereto, operated upon rails.

RECONSTRUCTED VEHICLE. Every vehicle of a type required to be registered by law materially altered from its original construction by the removal, addition or substitution of essential parts, new or used.

RESIDENCE DISTRICT. The territory within the city contiguous to and including a highway, not comprising a business, suburban or school district, where 40% or more of the frontage on such highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of the highway.

ROAD TRACTOR. Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

ROADWAY. The portion of a highway improved, designed or ordinarily used for vehicular travel.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SCHOOL BUS. Every vehicle operated for the transportation of children to or from school, except vehicles that are:

- (1) Privately owned and not operated for compensation;
- (2) Used exclusively in the transportation of the children in the immediate family of the driver;
- (3) Operated by a municipally or privately owned urban transit company for the transportation of children as part of or in addition to their regularly scheduled service; or
- (4) Designed to carry not more than nine persons as passengers, either school owned or privately owned, which is used to transport pupils to activity

events in which the pupils are participants or used to transport pupils to their homes in case of illness or other emergency situations. The vehicles operated under the provisions of this division (4) shall be operated by employees of the school district who are specifically approved by the Local Superintendent of Schools for the assignment.

SCHOOL DISTRICT. The territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

SIDEWALK. The portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

SOLID TIRE. Every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load.

SPECIAL MOBILE EQUIPMENT. Every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery and ditch-digging apparatus. This description does not exclude other vehicles that are within the general terms of this definition.

SPECIALLY CONSTRUCTED VEHICLE. Every vehicle of a type required to be registered under state law not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

STREET or **HIGHWAY.** 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.

SUBURBAN DISTRICT. The portion of the city not within a business, school or residence district.

THROUGH HIGHWAY or **THRU HIGHWAY.** Every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the highway and when stop signs are erected as provided by ordinance or such entrances are controlled by a police officer or traffic control signal. The term **ARTERIAL** shall be synonymous with the term **THROUGH** or **THRU** when applied to highways of the state.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

TRAILER.

(1) Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(2) Whenever the term **TRAILER** is used in this chapter, it shall be construed to include the term **SEMI-TRAILER**.

TRANSPORTER. A person engaged in the business of delivering vehicles of a type required to be registered or titled in the state who has received authority to make delivery as specified by rules adopted by the state's Department of Transportation.

TRUCK TRACTOR. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway. Where a **VEHICLE** is kept refers to the county of

residence of the owner or to the county where the **VEHICLE** is mainly kept if such owner is a non-resident of the state. The term **VEHICLE** does not include the following:

- (1) Any device moved by human power;
- (2) Any device used exclusively upon stationary rails or tracks;
- (3) Any steering axle, dolly or other integral part of another vehicle, which in and of itself is incapable of commercially transporting any person or property, but is used primarily to support another vehicle; and
- (4) Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

(2013 Code, § 20-1) (Ord. 68, passed 8-14-1950; Ord. 10904, passed 5-11-1996)

Statutory reference:

Similar provisions, see I.C.A. § 321.1

§ 70.002 OPERATION OF VEHICLES ON PUBLIC STREETS, ALLEYS AND HIGHWAYS.

(A) The sections of this traffic code relating to the operation of vehicles refer exclusively to the operation of vehicles upon public streets, alleys and highways, except where a different place is specifically referred to in a given section.

(B) The provisions of §§ 70.025 through 70.029 of this chapter, inclusive, and §§ 70.025 and 70.026 of this code of ordinances shall apply upon highways and elsewhere within the city.

(2013 Code, § 20-2) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.228

§ 70.003 OBEDIENCE TO POLICE OFFICERS.

No person shall willfully fail or refuse to comply with any lawful order or directions of any peace officer invested by law with authority to direct, control or regulate traffic.

(2013 Code, § 20-3) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.229

§ 70.004 APPLICABILITY TO PUBLIC OFFICERS.

The sections of this traffic code applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, the state or any county, city, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this traffic code with reference to authorized emergency vehicles.

(2013 Code, § 20-4) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.230

§ 70.005 APPLICATION TO ROAD WORKERS.

The sections of this traffic code, except § 71.025 of this chapter, shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway officially closed to traffic, but shall apply to such persons and vehicles when traveling to or from such work. The minimum speed restriction of I.C.A. § 321.285(6), and the provisions of §§ 71.001, 71.002 and 71.064 of this code of ordinances do not apply to road workers operating maintenance equipment on behalf of any state or local authority while engaged in road maintenance, road blading, snow and ice control and removal and granular resurfacing work on a highway, whether or not the highway is closed to traffic.

(2013 Code, § 20-5) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.233

§ 70.006 BICYCLES, ANIMALS OR ANIMAL-DRAWN VEHICLES; GOLF CARTS.

(A) (1) A person riding an animal or driving an animal drawing a vehicle upon a roadway is subject to the sections of this traffic code applicable to the driver of a vehicle, except those sections of this traffic code that, by their nature, can have no application.

(2) A person, including a peace officer, riding a bicycle on the highway is subject to the sections of this traffic code and has all the rights and duties under this traffic code applicable to the driver of a vehicle, except those sections of this traffic code which, by their nature, can have no application or those sections for which specific exceptions have been set forth regarding police bicycles.

(3) A person propelling a bicycle on the highway shall not ride other than upon or astride a permanent and regular seat attached to the bicycle.

(4) A person shall not use a bicycle on the highway to carry more persons at one time than the number of persons for which the bicycle is designed and equipped.

(5) This section does not apply to the use of a bicycle in a parade authorized by proper permit from local authorities.

(2013 Code, § 20-6)

(B) (1) The use and operation of golf carts on the city streets is authorized, except as may be restricted as provided in division (B)(2) below.

(2) The following restrictions shall apply to the use and operation of golf carts on the city streets.

(a) The operator of any golf cart on a city street shall possess a valid operator's license.

(b) Golf carts shall not be operated upon a city street that is a primary road extension through the city, but shall be allowed to cross a city street that is a primary road extension through the city.

(c) The golf cart shall be equipped with a slow moving vehicle sign and a bicycle safety flag.

(d) The golf cart shall be operated on city streets only from sunrise to sunset.

(e) Golf carts shall be equipped with adequate brakes.
(2013 Code, § 20-6.1)

(Ord. 68, passed 8-14-1950; Ord. 14137, passed 8-9-1982; Ord. 14970, passed 11-27-2017) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.234

§ 70.007 RIGHTS OF OWNERS OF PRIVATE PROPERTY.

Nothing in this traffic code shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use or from requiring other or different or additional conditions than those specified in this traffic code or otherwise regulating such use as may seem best to such owner.

(2013 Code, § 20-7)

Statutory reference:

Similar provisions, see I.C.A. § 321.251(1)

§ 70.008 ENFORCEMENT AGENCY.

The Police Department shall be the enforcement agency of all parking or traffic violations.

(2013 Code, § 20-8) (Ord. 11658, passed 4-29-1970; Ord. 12521, passed 8-14-1974)

§ 70.009 VEHICLE CONDITION, EQUIPMENT AND LOAD.

(A) It shall be unlawful for any person to operate a vehicle that is not equipped and in the operating condition required by state law. Vehicle equipment shall be operated as required or permitted by state law. Except as otherwise posted, it shall be unlawful for any person to operate a vehicle that exceeds the load limitations established by state law.

(B) A person shall not drive a vehicle equipped with a windshield, sidewings or side or rear windows which do not permit clear vision. A person shall not operate on the highway a motor vehicle equipped with a front windshield, a side window to the immediate right of left of the driver or a sidewing forward of and to the left or right of the driver which is excessively dark or reflective so that it is difficult for a person outside the

motor vehicle to see into the motor vehicle through the windshield, window, or sidewing. A motor vehicle may have add-on (aftermarket) window tint on any window except the windshield; provided that, the tinting material allows a minimum of 70% light transmittance through the glass.

(2013 Code, § 20-9) (Ord. 68, passed 8-14-1950; Ord. 14875, passed 7-12-2010)
Penalty, see § 70.999

Statutory reference:

Vehicle equipment, size, weight and load, see I.C.A. § 321.384 et seq.

§ 70.010 AUTHORIZED EMERGENCY VEHICLES.

(A) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section.

(B) The driver of any authorized emergency vehicle may:

(1) Park or stand an authorized emergency vehicle, irrespective of the provisions of this traffic code; and

(2) Disregard laws or regulations governing direction of movement for the minimum distance necessary before an alternative route that conforms to the traffic laws and regulations is available.

(C) The driver of a Fire Department vehicle, police vehicle or ambulance or a peace officer riding a police bicycle in the line of duty may do any of the following:

(1) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; and/or

(2) Exceed the maximum speed limits so long as the driver does not endanger life or property.

(D) The exceptions granted to an authorized emergency vehicle under division (B) above and for a Fire Department vehicle, police vehicle or ambulance as provided in division (C) below shall apply only when such vehicle is making use of an audible signaling device meeting the requirements of I.C.A. § 321.433, or a visual signaling device; except that, use of an audible or visual signaling device shall not be required when exercising the exemption granted under division (C)(2) above when the vehicle is operated by a peace officer, pursuing a suspected violator of the speed restrictions imposed by or pursuant to this chapter, for the purpose of determining the speed of travel of such suspected violator.

(E) Divisions (A) through (D) above shall not relieve the driver of an authorized emergency vehicle or the rider of a police bicycle from the duty to drive or ride with due regard for the safety of all persons, nor shall such provisions protect the driver or rider from the consequences of the driver's or rider's reckless disregard for the safety of others.

(2013 Code, § 20-10) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.231

§ 70.011 OFFENSES BY OWNERS.

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

(2013 Code, § 20-12) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.484

§ 70.012 SCHEDULED FINES FOR VIOLATION OF CERTAIN PROVISIONS.

(A) Violations of sections of this chapter specified in this section shall be scheduled violations, and the scheduled fine for each of those violations shall be as found in state law as it relates to city ordinances. The city has adopted the following ordinances, the violation of which may be considered a scheduled violation:

(1) For excessive speed violations under Ch. 76, Schd. VIII, division (A), of this code of ordinances;

(2) For operating, passing, turning and standing violations under §§ 71.003 through 71.008, 71.010, 71.011, 71.040 through 71.046, 71.064, 71.080 and 71.081 of this code of ordinances;

(3) For violations involving failures to yield or observe pedestrians and other vehicles under §§ 71.001, 71.002, 71.009, 71.027, 71.042, 71.060, 71.061, 71.062, 75.003, 75.007 and Ch. 76, Schd. VIII(B);

(4) For violations by pedestrians and bicyclists under §§ 75.001, 75.002, 75.004 and 75.006 of this code of ordinances; and

(5) For violations of vehicle equipment, traffic signs and signals and failure to obey an officer under §§ 70.003, 70.009, 70.041, 71.027, 71.063, 71.065, 71.085, 71.089, 72.055(A) and (B) and 72.057.

(B) The scheduled fine for each of the scheduled violations in division (A) above shall be that as provided by state law for the violation of a city ordinance.

(C) The method and procedure of payment and collection of such scheduled fines shall be the same as that provided for the payment collection of scheduled fines for violation of city ordinances under state law.

(2013 Code, § 20-13) (Ord. 13862, passed 12-9-1980; Ord. 14875, passed 7-12-2010)

§ 70.013 SPECIAL SCHOOL PARKING.

It shall be unlawful to stop or park a motor vehicle in a school zone for the purpose of passenger loading or unloading; provided, however, that, the driver must remain in the vehicle at all times.

(2013 Code, § 20-14) (Ord. 14198, passed 9-24-1984; Ord. 14218A, passed 6-24-1985) Penalty, see § 70.999

ACCIDENTS

§ 70.025 REPORTS OF DEATH OR PERSONAL INJURIES.

(A) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and, in every event, shall remain at the scene of the accident until he or she has fulfilled the requirements of § 70.027 of this chapter.

(B) Every such stop shall be made without obstructing traffic more than is necessary.

(2013 Code, § 20-26) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.261

§ 70.026 REPORT OF DAMAGE TO VEHICLE.

(A) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall forthwith return to and in every event shall remain at the scene of such accident until he or she has fulfilled the requirements of § 70.027 of this chapter.

(B) Every stop shall be made without obstructing traffic more than is necessary.

(2013 Code, § 20-27) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.262

§ 70.027 DUTY OF DRIVER TO GIVE INFORMATION AND AID.

(A) The driver of a vehicle involved in an accident resulting in injury to or death of any person or damage to a vehicle which is driven or attended by any person shall give the driver's name, address and the registration number of the vehicle the driver is driving and shall, upon request and if available, exhibit the driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to a person injured in such accident reasonable assistance, including the transporting or arranging for the transporting of such person for medical treatment if it is apparent that such treatment is necessary or if transportation for medical treatment is requested by the injured person.

(B) If the accident causes the death of a person, all surviving drivers shall remain at the scene of the accident except to seek necessary aid or to report the accident to law enforcement authorities. Before leaving the scene of the fatal accident,

each surviving driver shall leave the surviving driver's license, automobile registration receipt or other identification data at the scene of the accident. After leaving the scene of the accident, a surviving driver shall promptly report the accident to law enforcement authorities and shall immediately return to the scene of the accident or inform the law enforcement authorities where the surviving driver can be located.

(2013 Code, § 20-28) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.263

§ 70.028 REPORT UPON STRIKING UNATTENDED VEHICLE.

The driver of any vehicle which collides with any vehicle that is unattended shall immediately stop and shall, then and there, either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

(2013 Code, § 20-29) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.264

§ 70.029 REPORT OF STRIKING FIXTURES UPON HIGHWAY.

The driver of any vehicle involved in an accident resulting in damage to property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner, a peace officer or person in charge of such property of the damage and of the driver's name and address and of the registration number of the vehicle causing the damage and shall, upon request and if available, exhibit the driver's license and shall make report of such accident, as required in I.C.A. § 321.265.

(2013 Code, § 20-30) (Ord. 66, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.265

TRAFFIC SIGNS AND SIGNALS

§ 70.040 CONFORMITY WITH STATE SPECIFICATIONS.

All traffic control devices upon the highways within the city shall conform to the Federal Highway Administration *Manual of Uniform Traffic Control Devices for Streets and Highways*.

(2013 Code, § 20-36) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.255

§ 70.041 OBEDIENCE.

No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this traffic code, unless at the time otherwise directed by a peace officer subject to the exceptions granted the driver of an authorized emergency vehicle.

(2013 Code, § 20-37) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.256

§ 70.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person violating any provision of § 70.006 of this chapter shall, upon conviction, be fined pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 20-6.1) (Ord. 68, passed 8-14-1950; Ord. 14137, passed 8-9-1982; Ord. 14970, passed 11-27-2017)

CHAPTER 71: TRAFFIC REGULATIONS

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VEHICLE OPERATION

§ 71.001 DRIVING ON RIGHT SIDE OF THE ROAD.

A vehicle shall be driven upon the right half of the roadway upon all roadways of sufficient width, except as follows:

(A) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(B) When an obstruction exists making it necessary to drive to the left of the center of the roadway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within such distance as to constitute an immediate hazard;

(C) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon;

(D) Upon a roadway restricted to one-way traffic;

(E) Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic upon all roadways, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection, an alley, a private road or a driveway; and

(F) A vehicle shall not be driven upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes or except as permitted under division (B) above. This division (F) shall not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, a private road or a driveway. (2013 Code, § 20-47) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.297

§ 71.002 MEETING AND TURNING TO RIGHT.

Except as otherwise provided in § 71.001 of this chapter, vehicles or persons on horseback, meeting each other on the public highway, shall yield one-half of the roadway by turning to the right.

(2013 Code, § 20-48) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.298

§ 71.003 PASSING VEHICLES.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated.

(A) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(B) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(2013 Code, § 20-49) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.299

§ 71.004 OVERTAKING ON THE RIGHT.

(A) The driver of a vehicle may overtake and pass upon the right of another vehicle that is making or about to make a left turn.

(B) The driver of a vehicle may overtake and, allowing sufficient clearance, pass another vehicle proceeding in the same direction either upon the left or upon the right on a roadway with unobstructed pavement of sufficient width for four or more lines of moving traffic when such movement can be made in safety.

(C) No person shall drive off the pavement or upon the shoulder of the roadway in overtaking or passing on the right.

(2013 Code, § 20-51) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.302

§ 71.005 OVERTAKING ON THE LEFT.

(A) A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

(B) The overtaking vehicle shall return to the right-hand side of the roadway before coming within 300 feet of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit in excess of 30 mph, and the overtaking vehicle shall return to the right-hand side of the roadway before coming within 100 feet of a vehicle approaching from the opposite direction when traveling on a roadway having a legal speed limit of 30 mph or less.

(2013 Code, § 20-52) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.303

§ 71.006 WHEN PASSING IS PROHIBITED.

No vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left side of the roadway under the following conditions:

(A) When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed for a distance of approximately 700 feet;

(B) When approaching within 100 feet of any narrow bridge, viaduct or tunnel, when so signposted, or when approaching within 100 feet of or traversing any intersection or railroad grade crossing; and

(C) Where official signs are in place directing that traffic keep to the right or a distinctive centerline is marked, which distinctive line also so directs traffic as declared in the sign manual adopted by the state's Department of Transportation.

(2013 Code, § 20-53) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.304

§ 71.007 DRIVING ON ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.

(A) Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

(B) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

(2013 Code, § 20-54) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.305

§ 71.008 ROADWAYS LANED FOR TRAFFIC.

Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules, in addition to all others consistent with this section, shall apply.

(A) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(B) Upon a roadway which is divided into three lanes, a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(C) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction, and drivers of vehicles shall obey the directions of every such sign.

(D) Vehicles moving in a lane designated for slow-moving traffic shall yield the right-of-way to vehicles moving in the same direction in a lane not so designated when such lanes merge to form a single lane.

(E) A portion of a highway provided with a lane for slow-moving vehicles does not become a roadway marked for three lanes of traffic.

(2013 Code, § 20-55) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.306

§ 71.009 FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2013 Code, § 20-56) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.307

§ 71.010 ELEVATED STRUCTURES.

(A) (1) No person shall drive a vehicle on any public bridge or elevated structure at a speed which is greater than the maximum speed permitted under this chapter on the street or highway at a point where the street or highway joins the bridge or elevated structure.

(2) Provided that, if the maximum speed permitted on the street or highway differs from the maximum speed on any other street or highway joining the bridge or elevated structure, the lowest of the speeds shall be the maximum speed limit on the bridge or elevated structure.

(B) However, no person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed that is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is signposted as provided by law.

(2013 Code, § 20-57) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.295

§ 71.011 SAFETY ZONES.

No vehicle shall, at any time, be driven through or within a safety zone.
(2013 Code, § 20-58) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.340

§ 71.012 USE OF SAFETY BELTS, HARNESSSES AND CHILD RESTRAINT DEVICES REQUIRED.

(A) The driver and front seat occupants of a type of motor vehicle which is subject to registration in the state, except a motorcycle or a motorized bicycle, shall each wear a properly adjusted and fastened safety belt or safety harness any time the vehicle is in forward motion on a street or highway in the state, as required by state law.

(B) Child restraint devices shall be utilized as required by state law.
(2013 Code, § 20-59) (Ord. 14364, passed 11-12-1991; Ord. 14741, passed 7-12-2004; Ord. 14875, passed 7-12-2010) Penalty, see § 71.999

§ 71.013 VEHICLES OVER EIGHT TONS.

(A) Subject to the exceptions set out in division (B) below, no person shall drive or operate a motor vehicle in excess of a registered weight of over eight tons on the streets of the city where so designated by the City Council.

(B) This section shall not apply to the following: garbage trucks; utility trucks; buses, including municipal and public buses; municipal fire apparatus or road maintenance equipment owned or leased by the city, county or state; delivery or moving trucks; trucks journeying to and from a truck terminal without other access; implements of husbandry, as defined in I.C.A. § 321.1(16) and implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair.

(C) This section shall not be construed so as to allow parking of trucks in residential areas if doing so would be contrary to any ordinance of the city.

(D) **THROUGH TRAFFIC** is defined as operation of a motor vehicle in excess of a registered weight of eight tons on the streets designated pursuant to division (A) above for purposes other than those designated in division (B) above.

(E) Suitable signs shall be erected to advise the public of the provisions of this section. For example: "NO THROUGH TRUCKS OVER 8 TONS".
(2013 Code, § 20-60) (Ord. 14414, passed 2-8-1993) Penalty, see § 71.999

§ 71.014 SEMI-TRACTORS; PROHIBITED NOISES.

It shall be unlawful for any person within the city to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor.

(2013 Code, § 20-61) (Ord. 14638, passed 1-24-2000) Penalty, see § 71.999

SPEED AND RELATED OFFENSES

§ 71.025 RECKLESS DRIVING.

It shall be unlawful for any person to drive any vehicle in the city in such manner as to indicate either a willful or a wanton disregard for the safety of persons or property. (2013 Code, § 20-76) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.277

§ 71.026 DRAG RACING.

No person shall engage in any motor vehicle speed contest or exhibition of speed on any street or highway of the state, and no person shall aid or abet any motor vehicle speed contest or speed exhibition on any street or highway of the state; except that, a passenger shall not be considered as aiding and abetting. The term **MOTOR VEHICLE SPEED CONTEST OR EXHIBITION OF SPEED** is defined as one or more persons competing in speed in excess of the applicable speed limit in vehicles on the public streets or highways.

(2013 Code, § 20-77) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.278

§ 71.027 CONTROL OF VEHICLE.

The person operating a motor vehicle or motorcycle shall have the vehicle or motorcycle under control and shall reduce the speed to a reasonable and proper rate when:

(A) Approaching and passing a person walking in the traveled portion of the public highway;

(B) Approaching and passing an animal which is being led, ridden or driven upon a public highway;

(C) Approaching and traversing a crossing or intersection of public highways or a bridge, a sharp turn, a curve or a steep descent, in a public highway;

(D) Approaching and passing an emergency warning device displayed in accordance with rules adopted under I.C.A. § 321.449, or an emergency vehicle displaying a revolving or flashing light;

(E) Approaching and passing a slow-moving vehicle displaying a reflective device as provided by I.C.A. § 321.383; and

(F) Approaching and passing through a signposted road work zone upon the public highway.

(2013 Code, § 20-80) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.288

§ 71.028 INFORMATION AND NOTICE AS TO SPEEDING VIOLATION.

In every charge of violation of Ch. 76, Schd. VIII, division (A), of this code of ordinances, the information, as well as a notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

(2013 Code, § 20-81) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.291

§ 71.029 MINIMUM SPEED.

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Peace officers are authorized to enforce this section by directions to drivers, and for apparent willful disobedience to this section and refusal to comply with the direction of an officer in accordance with this section, the continued slow operation by a driver shall be a misdemeanor.

(2013 Code, § 20-82) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.294

TURNING AND STARTING

§ 71.040 TURNING AT INTERSECTIONS.

Except as otherwise indicated by markings, buttons or signs, the driver of a vehicle intending to turn at an intersection shall do so as follows.

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

(B) 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.

(C) (1) 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.

(2) 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.

(2013 Code, § 20-91) Penalty, see § 71.999

Statutory reference:

Power of city to regulate or prohibit turning at intersections, see I.C.A. § 321.236(9)

Similar provisions, see I.C.A. § 321.311

§ 71.041 TURNING ON CURVE OR CREST OF GRADE.

No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade or hill, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

(2013 Code, § 20-92) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.312

§ 71.042 STARTING PARKED VEHICLE.

No person shall start a vehicle that is stopped, standing or parked unless and until such movement can be made with reasonable safety.

(2013 Code, § 20-93) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.313

§ 71.043 WHEN SIGNAL REQUIRED.

No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety and then only after giving a clearly audible signal by sounding the horn if any pedestrian may be affected by such movement or after giving an appropriate signal in the manner provided in this subchapter if any other vehicle may be affected by such movement.

(2013 Code, § 20-94) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.314

§ 71.044 SIGNAL TO BE CONTINUOUS.

A signal of intention to turn right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning when the speed limit is 45 mph or less and a continuous signal during not less than the last 300 feet when the speed limit is in excess of 45 mph.

(2013 Code, § 20-95) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.315

§ 71.045 STOP SIGNALS; TYPES.

(A) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this subchapter to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
(2013 Code, § 20-96)

(B) The signals required under the provisions of this subchapter may be given either by means of the hand and arm as provided in § 71.046 of this chapter or by a mechanical or electrical directional signal device or light conforming to the provisions of this subchapter.

(2013 Code, § 20-97)

(Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. §§ 321.316, 321.317(1)

§ 71.046 HAND AND ARM SIGNALS.

(A) All signals required in this subchapter which may be given by hand and arm shall when so given be given from the left side of the vehicle.

(B) The following manner and interpretation thereof is suggested:

- (1) Left turn: hand and arm extended horizontally;
- (2) Right turn: hand and arm extended upward; and
- (3) Stop or decrease of speed: hand and arm extended downward.

(2013 Code, § 20-98) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.318

RIGHT-OF-WAY

§ 71.060 ENTERING INTERSECTIONS FROM DIFFERENT HIGHWAYS.

(A) When two vehicles enter an intersection from different highways or public streets at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(B) The rule in division (A) above is modified at through highways and otherwise as stated in this chapter.

(2013 Code, § 20-111) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.319

§ 71.061 YIELD WHEN TURNING LEFT.

The driver of a vehicle intending to turn left within an intersection or into an alley, private road or driveway shall yield the right-of-way to all vehicles approaching from the opposite direction which are within the intersection or so close thereto as to constitute an immediate hazard, then the driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn.

(2013 Code, § 20-112) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.320

§ 71.062 ENTERING THROUGH HIGHWAYS.

The driver of a vehicle shall stop or yield as required by this subchapter at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway as to constitute a hazard, but the driver having so yielded may proceed cautiously and with due care enter the through highway.

(2013 Code, § 20-113) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.321

§ 71.063 ENTERING STOP OR YIELD INTERSECTIONS.

(A) The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right-of-way to any vehicle on the intersecting roadway that has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(B) The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions and, if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(2013 Code, § 20-114) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.322

§ 71.064 BACKING VEHICLES.

No person shall operate a vehicle on a highway in reverse gear unless and until such operation can be made with reasonable safety, and shall yield the right-of-way to any approaching vehicle on the highway or intersecting highway thereto which is so close thereto as to constitute an immediate hazard.

(2013 Code, § 20-115) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.323

§ 71.065 OPERATION ON APPROACH OF EMERGENCY VEHICLES.

(A) Upon the immediate approach of an authorized emergency vehicle with any lamp or device displaying a red light or an authorized emergency vehicle of a Fire Department displaying a blue light or when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. For the purposes of this section, the term **RED LIGHT** or **BLUE LIGHT** means a light or lighting device that, when illuminated, will exhibit a solid flashing or strobing red or blue light.

(B) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(2013 Code, § 20-116) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.324

MISCELLANEOUS RULES

§ 71.080 UNATTENDED MOTOR VEHICLE.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine or, when standing upon any perceptible grade, without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.

(2013 Code, § 20-386) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.362

§ 71.081 OBSTRUCTION TO DRIVER'S VIEW.

(A) No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his or her control over the driving mechanism of the vehicle.

(2013 Code, § 20-387) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.363

§ 71.082 GRADES, DEFILES AND CURVES.

The driver of a motor vehicle traveling through defiles or on approaching the crest of a hill or grade shall have such motor vehicle under control and on the right-hand side of the roadway and, upon approaching any curve where the view is obstructed within a distance of 200 feet along the highway, shall give audible warning with the horn of such motor vehicle.

(2013 Code, § 20-388) Penalty, see § 71.999

§ 71.083 COASTING PROHIBITED.

The driver of a motor vehicle shall not drive with the source of motive power disengaged from the driving wheels, except when disengagement is necessary to stop or to shift gears.

(2013 Code, § 20-389) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.365

§ 71.084 FOLLOWING FIRE APPARATUS.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(2013 Code, § 20-390) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.367

§ 71.085 CROSSING FIRE HOSE.

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.

(2013 Code, § 20-391) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.368

§ 71.086 DEBRIS OR INJURIOUS MATERIAL; REMOVAL; CLEAN-UP.

(A) A person shall not throw or deposit upon a highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, grass, leaves, lawn clippings or any other debris. A person shall not throw or deposit upon a highway a substance likely to injure any person, animal or vehicle upon the highway.

(2013 Code, § 20-392)

(B) Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material and other material, as defined in division (A) above, shall immediately remove the material or cause it to be removed.

(2013 Code, § 20-393)

(C) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any owners or operators of motor vehicles involved in an accident in which the investigating officer determines the operator to be at fault, or to share fault, and which requires a response by the city's Fire Department to control a fire, extract individuals from the wreckage, remove hazardous materials or restore the road way to a safe condition, shall be liable to the city for the cost of the materials and services provided in amounts established by resolution of the City Council.

(2013 Code, § 20-394)

(Ord. 68, passed 8-14-1950; Ord. 14893, passed 12-19-2011; Ord. 14934, passed 9-8-2014) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. §§ 321.369, 321.370, 321.371

§ 71.087 BACKING TO CURB.

It shall be unlawful to back any vehicle to the curb for the purpose of loading or unloading, in the business district on Main Street, or on any street where the position of such vehicle will interfere with or impede the movement of traffic along the street.

(2013 Code, § 20-395) (Ord. 68, passed 8-14-1950; Ord. 8141, passed 7-11-1951) Penalty, see § 71.999

§ 71.088 OPERATION OF VEHICLE UPON FLOODWALLS, LEVEES OR DIKES.

(A) No person shall use or operate any motor vehicle or bicycle, except for maintenance vehicles or emergency vehicles or snowmobiles, on any portion of any dike, levee or floodwall or within 50 feet of the toe of any dike, levee or floodwall, except at such areas designated and marked as authorized crossings.

(B) As used in this section, the term **TOE OF ANY DIKE** is defined as that point where the sloping sides of the flood control dike or levee ends and where the sloping sides of the dike or levee meets the surrounding area.

(2013 Code, § 20-396) (Ord. 12975, passed 7-28-1976) Penalty, see § 71.999

§ 71.089 SCHOOL BUS DISCHARGING PUPILS.

(A) The driver of a school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils, turn on flashing warning lamps at a distance of not less than 300 feet or more than 500 feet from the point where the pupils are to be received or discharged from the bus if the speed limit at that point is 45 mph or greater and shall turn on flashing warning lamps at a distance of not less than 150 feet from the point where the pupils are to be received or discharged from the bus if the speed limit at that point is less than 45 mph. At the point of receiving or discharging pupils, the driver of the bus shall bring the bus to a stop, turn off the amber flashing warning lamps, turn on the red flashing warning lamps and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off all flashing warning lamps, retract the stop arm and proceed on the route. Except to the extent that reduced visibility is caused by fog, snow or other weather conditions, a school bus shall not stop to receive or discharge pupils unless there is at least 300 feet of unobstructed vision in each direction. However, the driver of a school bus is not required to use flashing warning lamps and the stop arm when receiving or discharging pupils at a designated loading and unloading zone at a school attendance center or at extracurricular or educational activity locations where students exiting the bus do not have to cross the street or highway.

(B) If a school bus provided by an urban transit system is equipped with flashing warning lights and a stop arm, the driver of the school bus shall use the flashing warning light and stop arm as required by law.

(C) A school bus, when operating on a highway with four or more lanes, shall not stop to load or unload pupils who must cross the highway, except at designated stops where pupils who must cross the highway may do so at points where there are official traffic control devices or police officers.

(D) A school bus shall, while carrying passengers, have its headlights turned on.

(E) All pupils shall be received and discharged from the right front entrance of every school bus and, if the pupils must cross the highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the highway only on signal from the bus driver.

(F) The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, when meeting a school bus with flashing amber warning lamps shall reduce the vehicle's speed to not more than 20 mph and shall bring the vehicle to

a complete stop when the school bus stops and the stop signal arm is extended. The vehicle shall remain stopped until the stop signal arm is retracted, after which time the driver may proceed with due caution.

(G) The driver of a vehicle, including the driver of a vehicle operating on a private road or driveway, overtaking a school bus shall not pass a school bus when red or amber warning signal lights are flashing. The driver shall bring the vehicle to a complete stop no closer than 15 feet from the school bus when it is stopped and the stop arm is extended, and the vehicle shall remain stopped until the stop arm is retracted and the school bus resumes motion.

(H) The driver of a vehicle upon a highway providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction, even though the school bus is stopped.

(2013 Code, § 20-397) (Ord. 68, passed 8-14-1950; Ord. 11308, passed 10-15-1968) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.372

§ 71.090 OPERATION IN PARKS.

It shall be unlawful for any person to use or operate any motor vehicle or bicycle in any park, playground or other recreation area owned or operated by the city, except on established roadways or streets open to public use or unless signs are posted allowing such use.

(2013 Code, § 20-398) (Ord. 12502, passed 7-24-1974) Penalty, see § 71.999

Statutory reference:

Exclusion of vehicles from parks and cemeteries, see I.C.A. § 321.248

§ 71.091 PEOPLE ON STREETS AND PARKING AREAS; MOVEMENT AND PRESENCE.

(A) *Statement of purpose.*

(1) This section is adopted out of concern for the health, safety and welfare of those using the public streets and parking areas within the city.

(2) This section is designed to prevent injury to both property and persons.

(B) *Definitions.* The terms “motor vehicle”, “truck”, “pickup”, “motorcycle”, “motorized bicycle” and “bicycle” are defined by reference to the definitions of the terms found in I.C.A. Ch. 321.1, all of which are adopted by this reference.

(C) *Prohibited conduct.*

(1) It shall be unlawful for any person, regardless of age, to do any of the following upon the public streets, alleys or parking areas within the city:

(a) Sit upon the hood, fenders, roof, trunk lid, bumpers or pickup box of any motor vehicle parked upon the public streets or parking areas;

(b) Sit or stand upon the public streets or parking areas;

(c) Sit upon the sidewalk or curb and in doing so allow any part of the human torso to rest on the public streets or parking areas; and

(d) Sit upon any motorcycle, motorized bicycle or bicycle while such is parked upon the public streets or parking areas.

(2) The conduct declared unlawful as set out in this division (C) shall only be so between the hours of 8:00 p.m. through 6:00 a.m. daily.

(D) *Lawful acts.* It shall not be unlawful for any person to sit within a car, pickup or truck lawfully parked on a public street or parking area. It shall not be unlawful for any person to traverse over and upon a public street or parking area for otherwise lawful purposes, including ingress and egress to and from a lawfully parked motor vehicle, truck, pickup, motorcycle, motorized bicycle or bicycle.

(2013 Code, § 20-399) (Ord. 14399, passed 10-26-1992; Ord. 14970, passed 11-27-2017) Penalty, see § 71.999

§ 71.092 MOTOR VEHICLE LICENSES.

(A) *General.* Operators of all motor vehicles, including, but not limited to, motor scooters and motorized bicycles, operated on the public street are required to be properly licensed in accordance with the Code of Iowa, except:

(1) Motorized wheel chairs, three- or four-wheel, may be operated for the purpose of transporting the disabled;

(2) Lawn mowers operated for the purpose of mowing the grass may use the public street to take the most direct route from one residence to another;

(3) Farm equipment may be operated for the purpose of agriculture; and

(4) Golf carts may be operated and licensed as provided in § 70.006(B) of this code of ordinances.

(2013 Code, § 20-400)

(B) *Sidewalk operator of motorized vehicles.*

(1) The operation of all motorized vehicles, including, but not limited to, motor scooters and motorized bicycles, are prohibited on public sidewalks.

(2) However, motorized wheel chairs, three or four wheel, may operate on a public sidewalk for the purpose of transporting the disabled.

(2013 Code, § 20-401)

(C) *Vehicle licenses.* All motor vehicles operated on the public streets must be properly licensed and insured in accordance with the Code of Iowa.

(2013 Code, § 20-402)

§ 71.093 SOLICITING ON ROADWAY.

No person shall stand on the roadway, including the roadway medians, curbs, traffic islands and shoulders, for purposes of soliciting a ride, employment, charitable contributions or business, from the occupant of any vehicle.

(2013 Code, § 20-403) (Ord. 14773, passed 10-10-2005) Penalty, see § 71.999

§ 71.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person violating the provisions of § 71.013 of this chapter shall, upon conviction, be fined not more than \$100.

(2013 Code, § 20-60)

(C) A person who violates § 71.091 of this chapter shall be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 20-399)

(D) A person violating a provision of § 71.092 of this chapter shall be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 20-403)

(Ord. 14414, passed 2-8-1993; Ord. 14723, passed 9-8-2003; Ord. 14970, passed 11-27-2017)

CHAPTER 72: PARKING RULES

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STOPPING, STANDING OR PARKING

§ 72.001 GENERAL PROHIBITION.

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (A) On a sidewalk;
- (B) In front of a public or private driveway;
- (C) Within an intersection;
- (D) Within five feet of a fire hydrant;
- (E) On a crosswalk;
- (F) Within ten feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (G) Between a safety zone and the adjacent curb or within ten feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (H) Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light;
- (I) Within 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 75 feet of the entrance when properly signposted;

(J) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;

(K) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(L) At any place where official signs prohibit stopping or parking;

(M) Upon any street within the corporate limits of the city when the stopping, standing or parking is prohibited by a general ordinance of uniform application relating to removal of snow or ice from the streets;

(N) In front of a curb cut or ramp that is located on public or private property in a manner that blocks access to the curb cut or ramp; and/or

(O) On the terrace or easement area if visual hazard is created.

(2013 Code, § 20-159) (Ord. 68, passed 8-14-1950; Ord. 14702, passed 6-10-2003)
Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.358

§ 72.002 OVERTIME PARKING.

(A) No person shall cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time at any location designated.

(2013 Code, § 20-160)

(B) In reference to overtime parking, the method of parking shall be as follows: every vehicle stopped or parked upon a roadway shall be stopped or parked with the wheels of such vehicle parallel with and within 18 inches of the curb, and not closer than four feet end to end from another vehicle.

(2013 Code, § 20-160.1)

(C) The word **VEHICLE** means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(2013 Code, § 20-160.2)

(D) (1) Overtime alternate parking shall apply to all streets within the incorporate limits of the city, except as to streets or portions of streets hereinafter expressly excluded or not signed as such.

(2) Overtime alternate parking shall apply to the entire length or course of said street within the incorporate limits of the city, except as to such portion hereinafter expressly excluded or not signed as such.

(2013 Code, § 20-160.3)

(E) Streets and avenues running in an easterly and westerly direction, parking on the south side of said street or avenue prior to 9:00 a.m. is prohibited on Monday, Wednesday, Friday and Sunday, and on the north side of said street or avenue prior to 9:00 a.m. on Tuesday, Thursday and Saturday.

(2013 Code, § 20-160.4)

(F) Streets and avenues running in a northerly and southerly direction, parking shall be prohibited on the west side of said streets and avenues prior to 9:00

a.m. Tuesday, Thursday and Saturday, and on the east side of street or avenue prior to 9:00 a.m. Monday, Wednesday, Friday and Sunday.

(2013 Code, § 20-160.5)

(G) This section shall have no application and is expressly declared to be inapplicable to the existing parking ordinances or regulations in regard to the portions of streets and avenues bordering on and immediately adjacent to all public school grounds and also the portions of streets and avenues bordering on and immediately adjacent to all parochial school grounds.

(2013 Code, § 20-160.7)

(H) (1) *General.*

(a) A street or avenue beginning in a straight course from Main Street in a southerly and northerly direction, and then taking a diagonal course, shall for the purpose of this section be classified throughout its length as a north and south street or avenue. A street or avenue beginning in a straight course from Center Street in an easterly and westerly direction and then taking a diagonal course, shall, for the purpose of this section, be classified throughout its length as an east and west street or avenue.

(b) All other diagonal streets or avenues shall be deemed north and south streets if they angle less than 45 degrees from true north.

(c) All other diagonal streets or avenues shall be deemed east and west streets or avenues if they angle more than 45 degrees from true north.

(2) *Curved streets.* Streets curved in part shall be classified as north and south streets if the major portion thereof runs in a northerly and southerly direction. Streets curved in part shall be classified as east and west streets if the major portion thereof runs in an easterly and westerly direction.

(3) *Specific designations.* Brentwood Road and Brentwood Place shall be deemed and is so declared north and south streets or avenues for the purpose of this section. Brentwood Terrace shall be deemed and so declared an east and west street or avenue for the purpose of this section.

(2013 Code, § 20-160.8)

(I) (1) The principal of the use of alternate sides for the control of the parking or leave standing of vehicles is hereby established.

(2) The hour of change shall be at 9:00 a.m. on each day of the week on the streets and avenues herein covered.

(2013 Code, § 20-160.9)

(J) Appropriate signs stating thereon "NO PARKING" followed by the days of the week on which a vehicle shall not be parked or left standing shall be placed and maintained by the Street Department adjacent to the curb along the portions of the street included in the provisions of this section.

(2013 Code, § 20-160.10)

Penalty, see § 71.999

§ 72.003 SEMI-TRACTORS, TRUCKS OR TRAILERS.

(A) **RESIDENTIAL ZONE** shall mean for the purpose of this section any area of the city designated by the official zoning map of the city as a R-1, R-2, R-2A, R-3, R-4, R-5, R-6 or Residential Planned Unit Development District.

(B) The stopping, parking or leave standing of a semi-tractor, truck or trailer, either alone or in conjunction with each other with a five and one-half-ton license or more for more than three hours is hereby prohibited in any residential zone in the city; provided, however, that, the Police Department shall allow parking in excess of three hours when the tractor, truck or trailer is parked to render a service in the immediate vicinity.

(C) The method and procedure of payment and collection for each violation in division (A) above shall be the same as that provided for the payment collection of fines for violation of city ordinances under state law.

(2013 Code, § 20-170) (Ord. 14317, passed 5-29-1990; Ord. 14875, passed 7-12-2010) Penalty, see § 71.999

§ 72.004 RESPONSIBILITY FOR VEHICLES AND BICYCLES.

(A) *Scope of section.* This section shall apply to all motor vehicles and bicycles parked within the city in violation of ordinances regulating parking of such motor vehicles or bicycles.

(B) *Owner's responsibility.* If any motor vehicle or bicycle is found stopped, standing or parked in any manner violative of ordinances concerning parking, when the identity of the operator cannot be determined, the owner or person or corporation in whose name the vehicle or bicycle is registered shall be held prima facie responsible for the violation.

(2013 Code, § 20-171) (Ord. 13500, passed 2-12-1979) Penalty, see § 71.999

§ 72.005 REMOVAL OF UNATTENDED VEHICLE FROM BRIDGE, TUNNEL OR CAUSEWAY.

Whenever any peace officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

(2013 Code, § 20-172)

Statutory reference:

Similar provisions, see I.C.A. § 321.357

§ 72.006 STOPPING ON TRAVELED WAY.

(A) (1) Upon any highway outside of a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main- traveled part of the highway when it is practical to

stop, park or so leave such vehicle off such part of the highway, but in every event a clear and unobstructed width of at least 20 feet of such part of the highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway; provided, however, school buses may stop on a highway for receiving and discharging pupils, and all other vehicles shall stop for school buses which are stopped to receive or discharge pupils, as provided in § 71.089 of this code of ordinances.

(2) This section shall not apply to a vehicle making a turn as provided in § 71.040 of this code of ordinances.

(3) This section also does not apply to the stopping or parking of a maintenance vehicle operated by a highway authority on the main-traveled way of any roadway when necessary to the function being performed and when early warning devices are properly displayed.

(B) The provisions of division (A) above shall not apply to the driver of any vehicle that is disabled while on the paved or improved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid so stopping and temporarily leaving such disabled vehicle in such position.

(C) Whenever any peace officer finds a vehicle standing upon a highway in violation of any of the provisions of this section, such officer is authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the paved or improved or main-traveled part of such highway.

(2013 Code, § 20-173) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. §§ 321.354 through 321.356

§ 72.007 MOVING ANOTHER'S VEHICLE.

No person shall move a vehicle not owned by such person into any such prohibited area or away from a curb such distance as is unlawful.

(2013 Code, § 20-174) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.359

§ 72.008 THEATERS, HOTELS AND AUDITORIUMS.

A space of not to exceed 50 feet is reserved at the side of the street in front of any theater, auditorium or hotel having more than 25 sleeping rooms, 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.

(2013 Code, § 20-175) (Ord. 68, passed 8-14-1950) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.360

§ 72.009 PARKING AT RIGHT-HAND CURB.

Except where angle or center parking or parking of a vehicle with the left-hand wheels adjacent to and within 18 inches of the left-hand curb of a one-way roadway is permitted by ordinance, every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be so stopped or parked with the right-hand wheels of such vehicle parallel with and within 18 inches of the right-hand curb.

(2013 Code, § 20-176) (Ord. 68, passed 8-14-1950; Ord. 8874, passed 7-12-1955; Ord. passed 4-9-1968) Penalty, see § 71.999

Statutory reference:

Similar provisions, see I.C.A. § 321.361

§ 72.010 PARKING WITHIN LINES.

Whenever stalls or sections for motor vehicles are marked or painted upon the surface of any street or municipally owned or leased parking lot, the driver or operator of any motor vehicle shall park the vehicle within the limits of one of the stalls or sections and not over or across the lines.

(2013 Code, § 20-177) (Ord. passed 4-9-1968) Penalty, see § 71.999

§ 72.011 PARKING OVER 24 HOURS.

It shall be unlawful for any person to stop, park or leave standing any motor vehicle, machinery, mobile or movable equipment of any kind upon any street, avenue, alley or highway for more than 24 consecutive hours.

(2013 Code, § 20-178) (Ord. 11652, passed 4-15-1970) Penalty, see § 71.999

§ 72.012 BUS STOPS AND TAXICAB STANDS.

It shall be unlawful to stop, park or leave standing any vehicle or in any bus stop or taxicab stand, except that a temporary stop may be made to load or unload passengers.

(2013 Code, § 20-179) (Ord. 68, passed 8-14-1950; Ord. 8141, passed 7-11-1951) Penalty, see § 71.999

§ 72.013 TERRACE PARKING.

It shall be unlawful for any person to park or leave standing any motor vehicle on any terrace between the outside curb line of any public street, road or avenue and the

outside walk line of any street at any time or to use such terrace for the storage or parking of any such vehicle or other object.

(2013 Code, § 20-180) (Ord. 68, passed 8-14-1950; Ord. 8141, passed 7-11-1951; Ord. 14206, passed 11-13-1984) Penalty, see § 71.999

§ 72.014 MEDIAN STRIPS.

It shall be unlawful for any person to stop, park or leave standing any motor vehicle on any part or portion of any median strip.

(2013 Code, § 20-181) (Ord. 13170, passed 7-11-1977) Penalty, see § 71.999

§ 72.015 PARKING IN ALLEYS.

It shall be unlawful to stop, park or leave standing any vehicle in any alley at any time, except for loading or unloading.

(2013 Code, § 20-182) (Ord. 68, passed 8-14-1950; Ord. 8141, passed 7-11-1951) Penalty, see § 71.999

§ 72.016 PARKING VEHICLES FOR DISPLAY OR SALE.

It shall be unlawful to use or occupy any part of the street between lot lines for the parking or standing of any vehicle, including a motor vehicle, which is owned or possession had thereof, for the purposes of sale or display.

(2013 Code, § 20-183) (Ord. 68, passed 8-14-1950; Ord. 8141, passed 7-11-1951) Penalty, see § 71.999

§ 72.017 MUNICIPALLY-OWNED PARKING LOTS.

(A) *Blocking access or traffic flow in parking lots.* No vehicle shall be parked in any lot in any manner or of such size so as to block the free access or flow of traffic in and through any parking lot.

(2013 Code, § 20-230)

(B) *Impoundment of vehicles left on municipally-owned parking lots.* Any motor vehicle parked or left standing on any municipally owned or municipally leased parking lot for longer than 12 continuous hours may be removed therefrom and stored under the direction of the Police Department, and all costs of such removal and storage shall be payable by the operator or owner thereof. Any expense incurred therefor shall be in addition to the assessment of any fine or costs arising out of any violation of this subchapter.

(2013 Code, § 20-231) Penalty, see § 71.999

(C) *Consumption of alcoholic beverages on municipal parking lots prohibited.*
The consumption of alcoholic beverages, beer or wine in any municipally-owned or municipally-leased parking lot in the city is prohibited at all times.
(2013 Code, § 20-233)
(Ord. 14216, passed 6-10-1985; Ord. 14388, passed 8-10-1992) Penalty, see § 71.999

§ 72.018 STREET PARKING NEAR INTERSECTIONS.

(A) It shall be unlawful to stop, park or leave standing any motor vehicle on any street or avenue within 20 feet of the sidewalk extended to the curb at any street or avenue intersection.

(B) Upon application of the Director of Public Works/City Engineer, and approval of the Transportation Committee of the City Council, at designated intersections and school crossings, it shall be unlawful to stop, park or leave standing any motor vehicle on any street or avenue within 40 feet of the sidewalk extended to the curb at any street or avenue intersection or within 40 feet of a school crossing.

(C) The prohibited parking area shall be indicated by appropriate signage. Yellow striping of the curb may be used in addition, all consistent with uniform practices.
(2013 Code, § 20-234) (Ord. 14521, passed 12-11-1995) Penalty, see § 71.999

PARKING IN BUSINESS AND RESIDENTIAL YARDS

§ 72.035 PURPOSE.

The purpose of the front yard parking regulations in this subchapter is to prevent the unreasonable diminishing or impairment of established property values and aesthetics within the city and to preserve the public health, safety and welfare.
(2013 Code, § 20-241) (Ord. 14561, passed 10-13-1997)

§ 72.036 SCOPE.

The regulations proscribed in this subchapter apply to all residential zoned districts and residential real properties, regardless of zone, within the city.
(2013 Code, § 20-242) (Ord. 14561, passed 10-13-1997)

§ 72.037 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURB DROP. A cut made through the street curb that has previously been authorized and approved by the city.

DRIVEWAY. A surface consisting of concrete, asphalt, seal coat, solid bricks, gravel or crushed stone, constructed and maintained in quality, quantity and size to prevent the creation of ruts in, or deterioration or damage to, the driveway or soil beneath from the operation or parking of motor vehicles or vehicles thereon, located within a yard and connected to an approved curb drop or entrance.

DRIVEWAY EXTENSION. The portion of a driveway which is in excess of the allotted driveway width, which is contiguous to a driveway, which shall lead to a curb drop, and which consists of concrete, asphalt, seal coat, solid bricks, gravel or crushed stone, constructed and maintained in quality, quantity and size to prevent the creation of ruts in, or deterioration or damage to, the driveway extension or soil beneath from the operation or parking of motor vehicles or vehicles, or both, thereon.

DWELLING. Any portion of a building that is designed or used for residential living purposes, not including any attached garage portion.

ENTRANCE. A portion of the driveway that is the approved exit from a street or alley onto private property, which has previously been authorized and approved by the city.

FRONT YARD. For a corner lot, means any yard of a corner lot having a frontage on a street.

MOTOR VEHICLE. The same as defined in § 70.001 of this code of ordinances.

TRAILER. The same as defined in § 70.001 of this code of ordinances.

VEHICLE. The same as defined in § 70.001 of this code of ordinances.

(B) All other words and terms, not enumerated in division (A) above, including, but not limited to, the terms “frontage”, “lot”, “corner lot”, “street”, “yard”, “front yard”, “side yard” and “rear yard”, shall be defined as provided in the zoning ordinance, any amendments thereto or any future zoning ordinances enacted by the city.

(2013 Code, § 20-243) (Ord. 14561, passed 10-13-1997; Ord. 14672, passed 2-26-2001; Ord. 14912, passed 11-26-2012)

§ 72.038 DRIVEWAYS; NUMBER, COMPOSITION, LOCATION AND SIZE.

(A) *Composition of driveway and entrance surface.* Under this subchapter, a driveway and entrance shall be a surface constructed of concrete, asphalt, seal coat, solid bricks, gravel or crushed stone, constructed and maintained in quality, quantity and size to prevent the creation of ruts in or deterioration or damage to the driveway or soil beneath from the operation or parking of motor vehicles or vehicles, or both, thereon.

(B) *Location of driveway or parking areas.*

(1) *Front yard.* Only one driveway shall be allowed in a front yard per street frontage, except that a duplex with garages located at each end of the building shall be permitted a driveway for each garage. No driveway shall be located in front of a dwelling, except for any dwelling area portions attached to and located above or behind a garage. A driveway shall not lead to the side of a garage where there is no garage

door. A driveway shall be connected and lead to only one curb drop or entrance, except for residences on a corner lot located on a major or minor arterial or major collector roadway, as defined in the city's Comprehensive Plan and any future amendments to the plan, which can apply to the City Engineer for permission to connect a driveway to two curb drops for the sole purpose of allowing safe entry onto the roadway. Front yard driveways constructed after 1-1-2010 shall be constructed only with solid concrete, asphalt or solid bricks.

(2) *Rear and side yards.* Parking of all vehicles, including licensed and operable vehicles, recreational vehicles and trailers, must be parked in a permanent roofed structure or on a hard surface consisting of solid concrete, asphalt, solid bricks, crushed stone or gravel. Such hard-surfaced parking areas in a side-yard or rear-yard must be connected to a driveway leading from an approved curb drop or entrance which also consists of a hard surface consisting of solid concrete, asphalt, solid bricks, gravel or crushed stone. The vehicle wheels and any component touching the ground must be located entirely on and directly above the appropriate surface.

(3) *Maintenance.* Gravel or crushed stone must be maintained so as to be free from weeds and grass and to a depth to prevent erosion and rutting. All other surfaces, including gravel or crushed stone, must meet the requirements of division (A) above. Effective 9-30-2013, not more than two vehicles, including licensed and operable vehicles, recreational vehicles and trailers shall be parked on the side or rear yard of any single-family residential property. Vehicles in excess of this number, or not parked on surfaces meeting the requirements of this section, are subject to penalties outlined in § 72.999 of this chapter.

(C) *Width of driveway.* A driveway shall be no wider than the approved existing curb cut or entrance therefor, which intersects the street, or shall be no wider than as follows:

1 vehicle stall wide garage	12 feet*
2 vehicle stall wide garage	24 feet*
3 vehicle stall wide garage	24 feet*
4 stall garages and larger	All 4-vehicle stall wide garages and larger shall be placed on the lot so all the garage doors do not face the primary street. Some or all of the doors shall be perpendicular to the street. The driveway width in the front yard shall not be greater than 24 feet, plus 1 driveway extension

NOTES TO TABLE:

* One driveway extension with a maximum width of ten feet can be added to the maximum driveway width designated, but must meet the requirements of § 72.039 of this chapter.

(D) *Exemption for large lots.* Residential lots greater than one-half acre and with a front yard depth greater than 75 feet are exempt from the provisions of division (B) above and § 72.039(A) of this chapter, with the exception of paving requirements. A driveway permit application is required to be submitted and approved by the city to

verify that the lot qualifies as a large lot. The driveway width at the property line shall not be greater than 24 feet with no opportunity for a driveway extension.

(E) *Exemption for approved planned unit developments (PUD).*

(1) Residential PUDs which have been approved by the Plan and Zoning Commission and the City Council are exempt from the provisions of divisions (B) and (C) above and § 72.039 of this chapter only if driveway regulations are included in the approved PUD plans.

(2) All front yard driveways and driveway extensions must be paved in accordance with division (B)(1) above.

(F) *Responsibilities of owners.* Any person, corporation or legal entity who is the owner, whether the legal or equitable titleholder, of a residential lot shall be responsible for any violation of the driveway regulations provided in divisions (A), (B) and (C) above.

(2013 Code, § 20-244) (Ord. 14561, passed 10-13-1997; Ord. 14672 , passed 2-26-2001; Ord. 14912, passed 11-26-2012) Penalty, see § 72.999

§ 72.039 DRIVEWAY EXTENSIONS IN FRONT YARDS; EXCEPTIONS.

(A) (1) Prior written authorization of the Engineering Department or other authorized designee is required for all driveways and driveway extensions in front yards and regulations for authorization. No driveway extension shall be installed or construction thereon begun in any residential front yard without the prior written authorization of the Engineering Department or other authorized designee, issued to the owner, whether the legal or equitable title holder, of the lot.

(2) Prior to the Engineering Department or other authorized designee's consideration of any request for or issuance of a written authorization for any driveway or driveway extension in any residential front yard, any owner, whether the legal or equitable title holder, of the lot shall submit a written application and pay to the City Clerk a fee set by resolution. If any driveway extension has been installed or construction thereon begun prior to Engineering Department or other authorized designee's written authorization, the fee shall double. The City Clerk is not required to accept any coin in payment of any such application fee.

(3) The Engineering Department or other authorized designee shall issue a written authorization for a driveway extension in a residential front yard to an owner, whether the legal or equitable title holder, of a residential lot, upon submission of an application by the owner and payment of the fee therefor and only if a proposed driveway extension will be in compliance with all of the following, which shall be specified in writing in each written authorization issued:

(a) One driveway extension no wider than ten feet in width shall be permitted in a front yard;

(b) A driveway extension must be contiguous and parallel to the driveway;

(c) A driveway extension must be located between the driveway and the side property line in the direction away from the dwelling, if there is sufficient space for placement between the driveway and that side property line; and

(d) The surface of a driveway extension must be a surface consisting of concrete, blacktop, asphalt or solid bricks, and constructed and maintained in quality, quantity and size to prevent the creation of ruts in or deterioration or damage to the driveway extension or soil beneath from the operation or parking of motor vehicles or vehicles, or both thereon.

(4) Any person, corporation or legal entity who is the owner, whether the legal or equitable title holder, of a residential lot shall be responsible for any violation of this section pertaining to driveways or driveway extensions.

(2013 Code, § 20-245)

(B) (1) The following driveways and driveway extensions, in existence on or before 2-26-2001, are excepted or grandfathered from any of the regulations in § 72.038 of this chapter and division (A) above that would otherwise prohibit them:

(a) Driveway extensions that otherwise conforms to the driveway extension regulations prescribed by divisions (A)(3)(a), (A)(3)(b), (A)(3)(c) and (A)(3)(d) above without the necessity for Engineering Department or other authorized designee for a driveway extension that is located on the side of the driveway towards the dwelling, regardless if there exists sufficient space to have located the extension on the side of the driveway in the direction away from the dwelling;

(b) Driveways connected and leading to one or two approved existing curb cuts or entrances, which is in the nature of a circle-type or horseshoe-type driveway, whether located in front of a dwelling that otherwise conforms to the driveway regulations prescribed by § 72.038 of this chapter; or

(c) Driveways connected and leading to only one entrance from a street or alley, although the entrance has not been authorized and approved by the city, that otherwise conforms to the driveway regulations prescribed by § 72.038 of this chapter.

(2) The grandfather exceptions provided in this section shall automatically terminate for any driveway or driveway extension that is replaced, altered or expanded on or after 2-26-2001. However, maintenance, without changing the configuration, of a grandfathered driveway or driveway extension will not terminate its grandfathered status.

(2013 Code, § 20-246)

(Ord. 14561, passed 10-13-1997; Ord. 14672 , passed 2-26-2001; Ord. 14912, passed 11-26-2012) Penalty, see § 72.999

§ 72.040 FRONT YARD PARKING.

(A) Front yard parking off driveway or driveway extension prohibited. It shall be unlawful for any person, corporation or legal entity to park a motor vehicle, trailer or vehicle in the front yard of any residential lot, unless the motor vehicle, trailer or vehicle is parked completely upon a driveway, driveway extension or combination thereof or in a permanent roofed enclosure. However, this section shall not apply to motor vehicles, trailers or vehicles being used to move, deliver and/or take articles to and from a yard or building or structure located thereon or used in connection with providing a temporary service thereon for a reasonable period of time while in the active process of such use.

(B) Parking of trucks, other than panel or pickup trucks of less than one-ton capacity is prohibited in residential areas, except to load or unload. Heavy commercial vehicles, including tractor cab units rated at more than one-ton capacity, shall not be parked at any time in residential zoning districts.

(2013 Code, § 20-248) (Ord. 14561, passed 10-13-1997; Ord. 14672, passed 2-26-2001; Ord. 14702, passed 6-10-2003; Ord. 14912, passed 11-26-2012) Penalty, see § 72.999

§ 72.041 UNLICENSED, INOPERABLE MOTOR VEHICLES.

It shall be unlawful for any person, corporation or legal entity to park or store an unlicensed or inoperable motor vehicle or vehicle anywhere in the side or rear yard, including upon any driveway or driveway extension, unless the motor vehicle or vehicle is parked or stored in a permanent roofed enclosure. Mere licensing of an inoperable motor vehicle or vehicle shall not constitute a defense to the finding that such motor vehicle or vehicle is in violation of this section.

(2013 Code, § 20-249) (Ord. 14561, passed 10-13-1997; Ord. 14672, passed 2-26-2001; Ord. 14912, passed 11-26-2012) Penalty, see § 72.999

§ 72.042 RESPONSIBILITY FOR VIOLATIONS.

When the identity of the operator of a motor vehicle or vehicle cannot be determined, any person, corporation or legal entity who was the registered owner of such motor vehicle or vehicle and any person, corporation or legal entity who was in lawful possession of the residential lot where the violation occurred at the time of a violation shall be held prima facie responsible for any violation of the provisions of §§ 72.040 and 72.041 of this chapter.

(2013 Code, § 20-250) (Ord. 14561, passed 10-13-1997; Ord. 14672, passed 2-26-2001; Ord. 14912, passed 11-26-2012)

§ 72.043 NO PRIOR NOTICE, WARNING REQUIRED.

The offenses enumerated in this subchapter do not contain elements that require any prior notice or warning be given an offender regarding any offense.

(2013 Code, § 20-251) (Ord. 14561, passed 10-13-1997; Ord. 14672, passed 2-26-2001; Ord. 14912, passed 11-26-2012)

SPECIAL STOPS

§ 72.055 RAILROADS; OBEDIENCE TO SIGNALS; CROSSINGS/.

(A) *Obedience to signal of train.*

(1) Whenever any person driving a vehicle approaches a railroad grade crossing and warning is given by automatic signal or crossing gates or a flag person or otherwise of the immediate approach of a train, the driver of such vehicle shall stop within 50 feet, but not less than 15 feet from the nearest track of such railroad and shall not proceed until he or she can do so safely.

(2) The driver of a vehicle shall stop and remain standing and shall not traverse such a grade crossing when a crossing gate is lowered or when a human flag person gives or continues to give a signal of the approach or passage of a train.

(2013 Code, § 20-201)

(B) *Stopping at railroad crossing.* The driver of any vehicle approaching a railroad grade crossing across which traffic is regulated by a stop sign, a railroad sign directing traffic to stop or an official traffic control signal displaying a flashing red or steady circular red colored light shall stop prior to crossing the railroad at the first opportunity at either the clearly marked stop line or at a point near the crossing where the driver has a clear view of the approaching railroad traffic.

(2013 Code, § 20-202)

(C) *Certain vehicles required to stop at railroad crossings.*

(1) (a) The driver of a motor vehicle carrying passengers for hire, a school bus or a vehicle carrying hazardous material and required to stop before crossing a railroad track by motor carrier safety rules adopted under I.C.A. § 321.449, before crossing at grade any track of a railroad, shall stop the vehicle within 50 feet, but not less than 15 feet from the nearest rail.

(b) While stopped, the driver shall listen and look in both directions for an approaching train and for signals indicating the approach of a train and shall not proceed until the driver can do so safely.

(2) No stop need be made at a crossing where a peace officer or a traffic control device directs traffic to proceed. No stop need be made at a crossing designated by an "exempt" sign. An exempt sign shall be posted only where the tracks have been partially removed on either side of the roadway.

(2013 Code, § 20-203)

(D) *Heavy equipment at railroad crossing.*

(1) No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of six or less mph or a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of any such intended crossing shall be given to a superintendent of such railroad, and a reasonable time shall be given to such railroad to provide proper protection at such crossing.

(3) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the vehicle or equipment not less than ten feet or more than 50 feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the crossing can be made safely.

(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flag person or otherwise of the immediate approach of a railroad train or car.

(2013 Code, § 20-204)

(Ord. 68, passed 8-14-1950) Penalty, see § 72.999

Statutory reference:

Similar provisions, see I.C.A. §§ 321.341 through 321.344

§ 72.056 PRIMARY ROADS DESIGNATED AS THROUGH HIGHWAYS.

Primary roads and extensions of primary roads within the city are designated as through highways.

(2013 Code, § 20-205) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.350

§ 72.057 EMERGING AND YIELDING WHEN EMERGING FROM PRIVATE ROADWAY, ALLEY, BUILDING OR DRIVEWAY.

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, the driver shall proceed into the sidewalk area only when the driver can do so without danger to pedestrian traffic, and the driver shall yield the right-of-way to any vehicular traffic on the street into which the driver's vehicle is entering.

(2013 Code, § 20-206) Penalty, see § 72.999

HABITUAL VIOLATOR PENALTY AND PROCEDURES

§ 72.070 HABITUAL VIOLATOR.

(A) For the purposes of this subchapter, a delinquent parking citation-complaint is one that has not been paid within 30 days of the date upon which the violation occurred.

(B) Any person who has allowed five or more overtime and/or illegal parking citation-complaints issued on a motor vehicle or registration plate to become delinquent shall be deemed to be a habitual violator.

(C) No person shall park a vehicle and permit it to remain standing upon any public street or municipal lot in the city when there are five or more delinquent parking citation-complaints outstanding against that vehicle or registration plate.

(D) A violation of this section shall place such vehicle in the status of an illegally parked vehicle, and the vehicle may be dealt with pursuant to § 72.071 of this chapter.

(2013 Code, § 20-187) (Ord. 14601, passed 9-14-1998) Penalty, see § 72.999

§ 72.071 REMOVAL AND IMPOUNDMENT OF ILLEGALLY PARKED VEHICLES.

The Police Department may remove and impound vehicles or cause vehicles to be removed and impounded when the vehicles are stopped or parked in violation of this chapter or other city ordinances and, in so doing, may employ such means as are reasonably necessary. Impounded vehicles shall be stored in a location designated by the city.

(2013 Code, § 20-188) (Ord. 14601, passed 9-14-1998)

§ 72.072 RIGHT OF OWNER TO REDEEM IMPOUNDED VEHICLE.

(A) The registered owner or person having a legal entitlement to possession of a motor vehicle impounded pursuant to § 72.071 of this chapter may claim the vehicle by paying the city or the city's impoundment contractor, if one is contracted, in an amount sufficient to cover all charges attributable to the impoundment and storage of the vehicle.

(B) If a hearing pursuant to § 72.074 of this chapter is held and a Hearing Officer determines there was no probable cause to impound the vehicle, the costs attributable to the impoundment shall be refunded upon the presentation to the city's Finance Director of:

- (1) A certificate of no probable cause issued by the city; and
- (2) The bond receipt.

(C) If a motor vehicle was impounded pursuant to § 72.070 of this chapter, all delinquent parking citation-complaints must be satisfied. An administrative fee of \$50 will be required, payable to the City Clerk.

(D) If the vehicle is not claimed until after a hearing requested pursuant to § 72.073 of this chapter, the vehicle may be claimed upon:

- (1) Payment of all charges referred to in § 72.074 of this chapter; or
- (2) Presentation of a certificate of no probable cause within two working days of its issuance to the party in possession of the vehicle.

(E) Failure to timely present such certificate will result in assumed liability on the part of the owner or person having legal entitlement to possession to the vehicle for all related storage charges.

(2013 Code, § 20-189) (Ord. 14601, passed 9-14-1998)

§ 72.073 RIGHT TO HEARING.

(A) The registered owner or person having legal entitlement to possession of a vehicle impounded pursuant to this subchapter has a right to a post-seizure administrative hearing before a Hearing Officer designated by the City Administrator, to determine whether there was probable cause to impound the vehicle and any personal property contained within the vehicle; provided, the registered owner or person having legal entitlement to possession files a written demand with the City Clerk's office within ten days of mailing of the notice of the impoundment. A copy of this subchapter shall be given to the person requesting a hearing.

(B) Failure to request a hearing within such time period or to attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such a hearing. (2013 Code, § 20-190) (Ord. 14601, passed 9-14-1998)

§ 72.074 CONDUCT OF HEARING.

(A) The post-seizure administrative hearing held under this subchapter shall be conducted before the Hearing Officer designated by the City Administrator within a reasonable period of time, but not to exceed 15 business days, excluding Saturdays, Sundays and city holidays, from the date of receipt of a written demand. Such hearing may be continued from time to time for good cause. The sole issue before the Hearing Officer shall be whether there was probable cause to impound the vehicle and personal property contained within the vehicle in question. The department causing the vehicle to be impounded shall carry the burden of establishing that there was probable cause to impound the vehicle in question. The Hearing Officer shall decide only that either there was probable cause to impound the vehicle and contents, or there was no probable cause to impound the vehicle and contents. If the Hearing Officer determines there was probable cause to impound the vehicle and contents, the registered owner or person having legal entitlement to possession of the vehicle is responsible for payment of all charges attributable to the impoundment and storage of the vehicle and the costs of the administrative hearing. If the Hearing Officer determines there was no probable cause, the Hearing Officer shall prepare a certificate of no probable cause and the bond filed or charges paid shall be refunded pursuant to § 72.072 of this chapter.

(B) The proceedings at the administrative hearing shall be tape recorded by the Hearing Officer. Such tape recording shall serve as the official record of the administrative hearing for appeal purposes. The Hearing Officer shall retain all such tape recordings until the time for filing a notice of appeal has expired. If a notice of appeal is timely filed, the Hearing Officer shall retain the tape-recorded record of the administrative hearing until the appeal has been acted upon by the City Council.

(C) The decision of the Hearing Officer shall in no way affect any criminal proceeding in connection with the impoundment in question.

(D) Criminal charges, if any, may only be challenged in the appropriate court. (2013 Code, § 20-191) (Ord. 14601, passed 9-14-1998)

§ 72.999 PENALTY.

Marshalltown, IA Code of Ordinances

(A) (1) The penalty for violating any permit parking, overtime parking, no parking any time and restricted parking provisions shall be a fine of \$15 if paid within 30 days of the violation and, if not so paid within 30 days of the violation, the fine shall be \$25. The penalty for violating fire lane parking shall be a fine of \$25 if paid within 30 days; and, if not so paid within 30 days, the fine shall be \$35. Fines shall not be paid in pennies.

(2) Payment of the fines referred to in division (A)(1) above may be made by depositing the money in the envelope provided in the courtesy box, by paying same at the City Clerk's office, City Hall, or by mailing the fee in the envelope provided by depositing it in any proper U.S. mail box with sufficient U.S. postage affixed thereon.

(3) Each subsequent hour that the vehicle shall remain improperly parked after each summons is issued shall constitute a new and separate violation and shall incur the same penalty.

(4) If such penalty provided for in divisions (A)(1) and (A)(2) above is not paid as provided or if sufficient U.S. postage is not affixed when the citation is mailed such penalty shall be \$5.

(5) If any penalty set forth in this section is not so paid as provided in this section within ten days after such violation, the person, firm or corporation liable shall be chargeable upon an information filed in the appropriate court and shall be subject to such penalty under costs as the court shall determine.

(2013 Code, § 20-168)

(B) The fine for each violation in § 72.003 of this chapter shall be \$50, plus surcharges.

(2013 Code, § 20-170)

(C) Anyone violating the provisions of § 72.018 of this chapter shall be fined \$15, if paid within 30 days of the date of the violation. If not paid within 30 days the fine shall be \$25. Violations shall be charged and collected in the same manner as other parking violations, by notice of a fine payable to the City Clerk.

(2013 Code, § 20-234)

(D) (1) *Number of parked vehicles, composition, location and size of driveways and driveway extensions.* Any person, corporation or legal entity who is the owner, whether the legal or equitable title holder, of a residential lot who violates any of the regulations for the number of parked vehicles, composition, location and size of driveways and driveway extensions contained in §§ 72.038(A), (B) and (C) and 72.039(A)(1), (A)(2), (A)(3) and (A)(4) of this chapter is guilty of and may be charged either with a simple misdemeanor, which, upon conviction, is punishable pursuant to § 10.999(A) of this code of ordinances or a municipal infraction, which, upon judgment entered against a defendant, is punishable by the civil penalties and subject to the remedies defined in I.C.A. § 364.22 or any amendments thereto. Each day that a violation occurs or is permitted to exist constitutes a separate offense, whether charged as a simple misdemeanor or municipal infraction.

(2) *Front, side and rear yard parking regulations.* Any person, corporation or legal entity who violates any of the regulations for parking or storing a motor vehicle or vehicle in the front, side or rear yard of a residential lot contained in §§ 72.040(A) and (B) and 72.041 of this chapter is subject to the following procedures.

(a) Any such violator may be issued a notice of violation and fine due and payable to the City Clerk. The fine for any such violation shall be \$25 if paid within 30 days of the date upon which the violation occurred, and \$35 if not paid within 30 days of the date upon which the violation occurred, due and payable to the City Clerk. Each day that a violation occurs or is permitted to exist constitutes a separate violation. Payment of any such fine may be made by depositing the money in the envelope provided in any courtesy box, by payment at the City Clerk's office in City Hall, or by mailing the money in the envelope provided by depositing it in the U.S. mail with sufficient U.S. postage affixed thereon. The City Clerk is not required to accept any coin in payment of any such fine.

(b) Any such violator may be charged either with a simple misdemeanor, which, upon conviction, is punishable pursuant to § 10.999(A) of this chapter, or a municipal infraction, which, upon judgment entered against a defendant, is punishable by the civil penalties and subject to the remedies defined in I.C.A. § 364.22 or any amendments thereto, if any such violator either denies any violation contained in any notice of violation issued pursuant to division (E)(2)(a) above or fails to pay the fine provided in division (E)(2)(a) above and indicated in any notice of violation issued pursuant thereto within 30 days of the date upon which the violation occurred. Each day that a violation occurs or is permitted to exist constitutes a separate offense, whether charged under this division (E)(2)(b) as a simple misdemeanor or municipal infraction. (2013 Code, § 20-252)

(Ord. 13560, passed 6-25-1979; Ord. 14521, passed 12-11-1995; Ord. 14540, passed 4-22-1996; Ord. 14561, passed 10-13-1997; Ord. 14665, passed 11-13-2000; Ord. 14672, passed 2-26-2001; Ord. 14714, passed 7-14-2003; Ord. 14782, passed 4-24-2006; Ord. 14912, passed 11-26-2012)

CHAPTER 73: RECREATIONAL VEHICLES

Section

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GENERAL PROVISIONS

§ 73.001 DEFINITIONS.

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

CAMPING AND RECREATION EQUIPMENT. Any non-permanent recreational structure or vehicles including, but not limited to, tent, trailer or camper.
(2013 Code, § 19-1) (Ord. 14702, passed 6-10-2003)

§ 73.002 RECREATIONAL EQUIPMENT USAGE.

At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping or housekeeping purposes for a period of time to exceed five consecutive days or by prior approval by the Chief of Police.
(2013 Code, § 19-2) (Ord. 14702, passed 6-10-2003; Ord. 14970, passed 11-27-2017)
Penalty, see § 73.999

BICYCLES

§ 73.015 BUSINESS DISTRICT DEFINED.

For purposes of this subchapter only, the business district includes the following streets: Main Street from 2nd Street to 3rd Avenue; 2nd Street from State Street to Church Street; 1st Street from State Street to Church Street; Center Street from State Street to Church Street; 1st Avenue from State Street to Church Street; 2nd Avenue from State Street to Church Street.
(2013 Code, § 20-281) (Ord. 13710, passed 4-14-1980; Ord. 14769, passed 8-8-2005)

§ 73.016 OBSERVING TRAFFIC LAWS.

Every person riding a bicycle upon any street, alley or sidewalk within the city shall observe and obey the traffic laws and traffic signals of the city and of the state, so far as the laws and signals apply to the riding of bicycles and, specifically and without limitations, shall include traffic rules relating to traffic lights and highway stop signs, and every such person riding a bicycle must signal any change of direction in the course of travel and must travel on the right-hand side of the center of the street and shall not turn to the right or left in traffic, except at the regular street intersections and shall not weave in and out of the line of traffic.
(2013 Code, § 20-283) (Ord. 13710, passed 4-14-1980) Penalty, see § 73.999

§ 73.017 USE ON SIDEWALKS RESTRICTED.

It shall be unlawful for any person to ride any bicycle, at any time, on a public sidewalk in any business district of the city. However, the only exception to this is that any member of the public may ride a bicycle on any public sidewalk adjacent to Highway 14 in the city. However, the rider of any such bicycle shall yield the right-of-way to pedestrians by dismounting the bicycle and walking the bicycle until the pedestrians have been passed, whether the pedestrians are walking in the same direction as the bicycle is being ridden or walking toward the bicycle.
(2013 Code, § 20-286) (Ord. 13710, passed 4-14-1980) Penalty, see § 73.999

§ 73.018 BRAKES.

It shall be unlawful for any person to ride or operate a bicycle within the city limits without having the bicycle properly equipped with workable and safe brakes.
(2013 Code, § 20-289) (Ord. 13710, passed 4-14-1980) Penalty, see § 73.999

§ 73.019 LIGHTS REQUIRED.

Every bicycle shall be equipped with a lamp on the front exhibiting a white light, at the times specified in I.C.A. § 321.384, visible from a distance of at least 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 may be used in lieu of a rear light. A peace

officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

(2013 Code, § 20-290) (Ord. 13710, passed 4-14-1980) Penalty, see § 73.999

SNOWMOBILES

§ 73.040 DEFINITIONS.

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

OPERATOR. Every person who operates or is in actual physical control of a snowmobile.

ROADWAY. The portion of a street improved, designed or ordinarily used for vehicular travel, and does not include sidewalks or parkings or any area of public property between the roadway portion of the street and the abutting private property line.

SAFETY OR DEADMAN THROTTLE. A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving track.

SNOWMOBILE. Any self-propelled vehicle weighing less than 1,000 pounds which utilizes wheels with low pressure tires and which is designed to operate on land or ice or is equipped with sled-type runners or skis, endless belt-type tread or any combination thereof, and which is designed for travel upon snow, land or ice, except any vehicle registered as a motor vehicle under I.C.A. Ch. 321.

(2013 Code, § 20-346) (Ord. 12376, passed 12-26-1973)

Statutory reference:

Snowmobiles, see I.C.A. § 321G.1

§ 73.041 OPERATION TO COMPLY WITH STATE LAW.

A snowmobile shall be operated in accordance with the state law at all times.

(2013 Code, § 20-347) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.042 OPERATOR QUALIFICATIONS.

Every operator of a snowmobile shall have a valid motor vehicle operator's license and shall be at least 16 years of age.

(2013 Code, § 20-348) (Ord. 12376, passed 12-26-1973)

§ 73.043 PLACES WHERE OPERATION PROHIBITED.

Marshalltown, IA Code of Ordinances

- (A) It shall be unlawful to operate a snowmobile upon the following:
- (1) On the following streets:
 - (a) All state or federal highways within the city;
 - (b) On any street or highway designated as a one-way street;
 - (c) On Anson Street;
 - (d) On South 3rd Avenue from Anson Street to Linn Street;
 - (e) Within any portion of an area bounded on the north by the north curb line of Webster Street, on the west by the west curb line of 3rd Street, on the south by the south curb line of Boone Street and on the east by the east curb line of 3rd Avenue;
 - (f) Twelfth Street between Main Street and Summit Street;
 - (g) Thirteenth Street between Main Street and Summit Street;
 - (h) Fourth Avenue between Church and State Street;
 - (i) Olive Street between 4th Street and 2nd Avenue;
 - (j) East Meadow Lane from Center Street to 2nd Avenue;
 - (k) Sixth Street from Olive Street to Madison Street; and/or
 - (l) Southridge Road from Center Street to 3rd Avenue.
 - (2) Within 300 feet of a school, college, church, hospital or nursing home;
 - (3) Upon any cemetery, school ground, park, playground, recreational area, golf course or private property of any person unless express permission to so operate has been secured by the proper authority; and/or
 - (4) Upon the grounds of the Iowa Veterans Home and Iowa Veterans Home Cemetery.

(B) Notwithstanding division (A) above, a snowmobile may be operated upon such city streets when the operator thereof resides on one of the prohibited streets, but only when arriving or leaving the premises and only on the most direct route from his or her residence to the nearest street where operation is permitted.

(2013 Code, § 20-349) (Ord. 12376, passed 12-26-1973; Ord. 14497, passed 2-27-1995) Penalty, see § 73.999

Statutory reference:

Authority to prohibit operation of snowmobiles, see I.C.A. § 321G.9(4)a

§ 73.044 OPERATION ON SIDEWALK.

It shall be unlawful for any person to operate a snowmobile upon a sidewalk, except to cross it.

(2013 Code, § 20-350) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.045 OBEDIENCE TO TRAFFIC RULES, SIGNS AND SIGNALS AND POLICE.

Snowmobiles shall observe and obey all traffic rules, signs and signals, as well as all directions of a police officer.

(2013 Code, § 20-352) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.046 USE FOR PLEASURE PROHIBITED.

No snowmobile shall be operated solely for entertainment or pleasure, but only for the most direct ingress and egress from the city.

(2013 Code, § 20-353) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.047 SPEED.

It shall be unlawful for any person to drive or operate any snowmobile at a speed in excess of 15 mph or at a rate of speed greater than reasonable or proper under all existing circumstances.

(2013 Code, § 20-354) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

Statutory reference:

Speed, see I.C.A. § 321G.13(1)

§ 73.048 OPERATION IN SINGLE FILE.

No snowmobile shall be operated in conjunction with another or others unless they are operated in a single file fashion and as closely to the curb or edge of the road as is possible.

(2013 Code, § 20-358) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

Statutory reference:

Similar provisions, see I.C.A. § 321.G.9(3)d

§ 73.049 CROSSING STREETS.

It shall be unlawful for any operator of a snowmobile to make a direct crossing of a street or highway unless:

(A) The snowmobile is brought to a complete stop before entering upon the traveled portion of the street;

(B) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents or obscures oncoming traffic. The operator shall yield the right-of-way to all oncoming traffic that constitutes an immediate hazard; and/or

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

(2013 Code, § 20-359) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

Statutory reference:

Similar provisions, see I.C.A. § 321.G.9(2)

§ 73.050 WEAPONS.

No person shall operate a snowmobile with any firearm in his or her possession unless it is unloaded and enclosed in a carrying case or any bow unless it is unstrung or enclosed in a carrying case.

(2013 Code, § 20-360) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

Statutory reference:

Similar provisions, see I.C.A. § 321G.13(11)

§ 73.051 RIGHT-OF-WAY.

Snowmobiles shall yield the right-of-way to pedestrians and vehicular traffic.

(2013 Code, § 20-361) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.052 OPERATION BY TWO PERSONS; TOWING OBJECTS.

No more than two persons shall ride a snowmobile at one time. No sled, wagon, trailer or any other object shall be towed or pulled by a snowmobile.

(2013 Code, § 20-363) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.053 HOURS OF OPERATION.

Snowmobiles shall be operated only between the hours of 7:00 a.m. through 11:00 p.m., except in an emergency or when used as a supplement force of the Police or Fire Department or hospital or at any other time of emergency by permission of the Mayor.

(2013 Code, § 20-364) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.054 EQUIPMENT.

(A) It shall be unlawful for any person to operate a snowmobile that is not equipped as required by state law.

(2013 Code, § 20-365)

(B) It shall be unlawful for any person to operate a snowmobile on any public road or street without a bright color pennant or flag displayed at least 60 inches above the ground. The pennant or flag shall be a minimum of six inches by nine inches, shall be orange and shall provide a fluorescent effect.

(2013 Code, § 20-366)

(C) No person shall operate a snowmobile at any time on the streets without the required headlight and taillight being in continuous operation while the snowmobile is being operated.

(2013 Code, § 20-367)

(Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.055 LEAVING UNATTENDED.

It shall be unlawful to leave a snowmobile unattended while the motor is running or the keys left in the ignition.

(2013 Code, § 20-368) (Ord. 12376, passed 12-26-1973) Penalty, see § 73.999

§ 73.999 PENALTY.

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

CHAPTER 74: PUBLIC TRANSPORTATION

Section

74.001 Vehicles over eight tons; exceptions; sign placement

74.002 Use of bus stop areas by unauthorized vehicles

74.999 Penalty

§ 74.001 VEHICLES OVER EIGHT TONS; EXCEPTIONS; SIGN PLACEMENT.

(A) (1) Subject to the exceptions set out in division (B) below, no person shall drive or operate a motor vehicle in excess of a registered weight of eight tons on the city streets designated in this section by the City Council.

(2) The following streets and portions of streets are established as restricted portions of streets and avenues for the use, movement or through travel thereon of all types of motor vehicles, however operated, having a total weight of the vehicle and load in excess of 16,000 pounds or eight tons as authorized under I.C.A. § 321.473:

- (a) East Boone Street from S. 14th Avenue to S. 17th Avenue;
- (b) East Nevada Street between S. 12th Avenue and S. 18th Avenue;
- (c) Norris Place;
- (d) In the area north of Marion Street and east of N. 3rd Avenue;
- (e) South 15th Avenue from E. Linn Street south to Norris Place;
- (f) South 16th Avenue from E. Linn Street to East Nevada Street;
- (g) South 17th Avenue from E. Linn Street south to Norris Place;
- (h) North 12th Avenue between Marion Street and State Street;
- and
- (i) W. Main Street between 9th Street and 3rd Avenue.

(3) This section shall not be construed so as to allow parking of trucks in residential areas if doing so would be contrary to any city ordinance.

(4) For the purposes of this section, the term **THROUGH TRAFFIC** is defined as operation of a motor vehicle in excess of a registered weight of eight tons on the streets designated pursuant to this division (A) for purposes other than those designated in division (B) below.

(2013 Code, § 25-16)

(B) Division (A)(4) above shall not apply to the following:

- (1) Garbage trucks;
- (2) Utility trucks;
- (3) Buses, including municipal and public buses;
- (4) Municipal fire apparatus or road maintenance equipment owned or leased by the city, county or state;
- (5) Delivery or moving trucks;
- (6) Trucks journeying to and from a truck terminal; and/or
- (7) Implements of husbandry, as defined in I.C.A. § 321.1(16), and implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair.

(2013 Code, § 25-17)

(C) *Placement of signs under division (A) above.* The Director of Public Works/City Engineer shall cause to be placed and maintained appropriate signs designating such restricted portions of streets or avenues and the weight limit thereon so as to warn the driver or operator of any vehicle, with load, weighing in excess of the weight prohibited in division (A) above, from using such restricted portions of streets or avenues.

(2013 Code, § 25-18)

(Ord. 14365, passed 12-23-1991; Ord. 14367, passed 12-23-1991; Ord. 14408, passed 12-28-1992; Ord. 14414, passed 2-8-1993) Penalty, see § 73.999

§ 74.002 USE OF BUS STOP AREAS BY UNAUTHORIZED VEHICLES.

It shall be unlawful to stop, park or leave standing any vehicle, other than a passenger carrying bus operating under a proper city license, in any bus stop or bus stop area established, except in obedience to the directions of a police officer or to avoid an accident or collision.

(2013 Code, § 25-35) (Ord. 38, passed 8-14-1950; Ord. 11765, passed 11-10-1970) Penalty, see § 73.999

§ 74.999 PENALTY.

(A) For the purposes of this section and § 74.001(B) and (C) of this chapter, the term **THROUGH TRAFFIC** is defined as operation of a motor vehicle in excess of a registered weight of eight tons on the streets designated pursuant to § 74.001(A) of this chapter for purposes other than those designated in § 74.001(B) of this chapter.

(B) Any person violating the provisions of § 74.001(A) and (B) of this chapter shall, upon conviction, be fined not more than \$100.

(2013 Code, § 25-16) (Ord. 14367, passed 12-23-1991; Ord. 14408, passed 12-28-1992; Ord. 14414, passed 2-8-1993)

CHAPTER 75: PEDESTRIANS

Section

- 75.001 Obedience to signals
- 75.002 Walking on left side of road
- 75.003 Right-of-way
- 75.004 Crossing at other than crosswalk
- 75.005 Use of crosswalk
- 75.006 Hitchhiking
- 75.007 Blind pedestrians
- 75.008 Drivers to exercise due care and yield right-of-way

§ 75.001 OBEDIENCE TO SIGNALS.

Pedestrians shall be subject to traffic control signals at intersections as declared in this chapter, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(2013 Code, § 20-151) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.325

§ 75.002 WALKING ON LEFT SIDE OF ROAD.

Pedestrians shall, at all times when walking on or along a highway, walk on the left side of such highway.

(2013 Code, § 20-152) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.326

§ 75.003 RIGHT-OF-WAY.

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 so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

(2013 Code, § 20-153) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.327

§ 75.004 CROSSING AT OTHER THAN CROSSWALK.

(A) 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.

(B) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(C) Where traffic control signals are in operation at any place not an intersection, pedestrians shall not cross at any place, except in a marked crosswalk. (2013 Code, § 20-154) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.328

§ 75.005 USE OF CROSSWALK.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (2013 Code, § 20-155) (Ord. 68, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 321.330

§ 75.006 HITCHHIKING.

(A) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle.

(B) Nothing in this section or this chapter shall be construed so as to prevent any pedestrian from standing on that portion of the highway or roadway, not ordinarily used for vehicular traffic, for the purpose of soliciting a ride from the driver of any vehicle.

(2013 Code, § 20-156) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.331

§ 75.007 BLIND PEDESTRIANS.

(A) Any driver of a vehicle or operator of a motor-driven vehicle who approaches or comes in contact with a person wholly or partially blind carrying a cane or walking stick white in color or white tipped with red or being led by a guide dog wearing a harness and walking on either side of or slightly in front of the blind person

shall immediately come to a complete stop and take such precautions as may be necessary to avoid accident or injury to the person carrying a cane or walking stick white in color or white tipped with red or being led by a guide dog.

(B) For the purpose of guarding against accidents in traffic on the public thoroughfares, it shall be unlawful for any person, except persons wholly or partially blind to carry or use on the streets, highways and public places of the state any white canes or walking sticks which are white in color or white tipped with red.

(2013 Code, § 20-157) (Ord. 58, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. §§ 321.332, 321.333

§ 75.008 DRIVERS TO EXERCISE DUE CARE AND YIELD RIGHT-OF-WAY.

(A) Notwithstanding the provisions of § 75.004 of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise due care upon observing any child or any confused or incapacitated person upon a roadway.

(B) Every driver shall yield the right-of-way to pedestrian workers engaged in maintenance or construction work on a highway whenever a flag person or warning sign notifies the driver of the presence of such workers.

(2013 Code, § 20-158) (Ord. 68, passed 8-14-1950) Penalty, see § 70.999

Statutory reference:

Similar provisions, see I.C.A. § 321.329

CHAPTER 76: TRAFFIC SCHEDULES

Schedule

- I. Truck routes; major thoroughfare plan
- II. One-way streets
- III. Recreational bike trails
- IV. Stop intersections
- V. Yield intersections
- VI. Traffic signal locations
- VII. School zones
- VIII. Speed limits

SCHEDULE I. TRUCK ROUTES; MAJOR THOROUGHFARE PLAN.

(A) *Definitions.* For the purpose of this schedule, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; “shall” is mandatory and not directory.

BUILDING SETBACK LINE. A line establishing the minimum distance between a building and its front property line. Ch. 156 of this code of ordinances establishes the minimum distance.

MAJOR THOROUGHFARE. A street designated by the City Council as used for through traffic in, by or through the city.

RESTRICTED OR LIMITED ACCESS STREET. A street where access is permitted only at specifically designated points.

RIGHT-OF-WAY. The area owned by the city or state or dedicated for public use for street purposes lying between the individual property lines.

ROADWAY. The portion of the right-of-way developed for the purpose of moving traffic.

TRAFFIC MOVING LANE. The portion of the roadway devoted to the movement of a single line of traffic, varying in widths from ten feet to 12 feet in width.

TRUCK ROUTE. A street designated by the City Council as used for truck traffic in or through the city.

(2013 Code, § 26-87)

(B) *Major thoroughfares.*

(1) Major thoroughfares shall be as designated as existing and future major and minor arterial streets and collector streets on the major street plan as shown in the city's Comprehensive Plan and the city's Transportation Plan.

(2) The Transportation Plan containing the Major Thoroughfare Map shall be updated from time to time by the City Engineer and approved by the City Council and kept on file in the office of the City Clerk.

(2013 Code, § 26-88)

(C) *General provisions.*

(1) Building setback lines shall be measured from the future right-of-way as established by this schedule. Where setback requirements have been established along primary, state and federal highways by the state's Department of Transportation, the requirements of the state shall apply. The right-of-way widths shall be as required in the Transportation Plan, but in no case shall the right-of-way width be less than 60 feet.

(2) The cost of minimum improvements as provided in the city's subdivision regulations shall be assessed to the benefited property. The cost of added widths and thickness of the roadway in excess of the minimum improvements to meet major street design shall be paid for by the city, except as provided in division (C)(1) above.

(3) When the street is abutted by a Commercial or Industrial District as designated by the district map of the Zoning Ordinance, the established roadway width shall be not less than 37 feet, unless approved by the Council, and all the cost, regardless of width and thickness shall be assessed to the benefited property.

(2013 Code, § 26-89)

(D) *Extension of major thoroughfares.* The platting or subdivision of an area within or adjacent to the city, which requires approval of the Council as provided by I.C.A. Ch. 354 or § 558.65 and into which or through which a major thoroughfare would be extended upon annexation to said city, shall conform to the provisions of this schedule as a condition or requirement for such Council approval.

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(2013 Code, § 26-90)

(E) *Truck routes.* Truck routes are established as follows:

Street	Location
18th Avenue	From Marion Street to Highway 30
E. Main Street	From 12th Avenue to east corporate limits
Iowa Avenue	From west corporate limits to east corporate limits
Madison Street	From S. 9th Street to S. 3rd Avenue
Marion Street	From N. 3rd Avenue to N. 18th Avenue
N. 3rd Avenue	From north corporate limits to Marion Street
Nevada Street	From S. 3rd Avenue to S. 12th Avenue
S. 9th Street	From W. Lincoln Way to W. Madison Street
S. 12th Avenue	From E. Nevada Street to E. Main Street
S. Center Street	From south corporate limits to Iowa Avenue
W. Lincoln Way	From west corporate limits to S. 9th Street

(2013 Code, § 26-91)

(F) *Truck route signing.* Directional signing shall be erected at appropriate locations throughout the city to guide through trucks to the designated truck routes and facilitate their use.

(2013 Code, § 26-92)

Penalty, see § 70.999

SCHEDULE II. ONE-WAY STREETS.

(A) *One-way streets designated.* The following streets are hereby established as one-way streets for the movement of vehicular traffic thereon:

Street	Location
Church Street	Commencing at the west line of S. 7th Avenue and extending west on Church Street to the east line of S. 9th Street, which shall be only in a west direction of movement on said Church Street within the limits herein described
Linn Street	Commencing at the east line of S. 9th Street and extending east on Linn Street to the west line of S. 8th Avenue, which shall be only in an east direction of movement on said Linn Street within the limits herein described
S. 4th Avenue	Commencing at the north line of E. Boone Street and extending north on S. 4th Street to the south line of E. Church Street, which shall be only in an north direction of movement on said S. 4th Street within the limits herein described
S. 6th Street	Commencing at Main Street and extending south on S. 6th Street to Madison Street, which shall be only in a south direction

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Street	Location
S. Center Street	Viaduct frontage roads on the westerly side shall be only in a south direction between Boone and Madison Streets and on the easterly side shall be only in a north direction between Madison Street and Nevada Street

(2013 Code, § 26-93)

(B) *Turning at intersections.* The turning at intersections on any one-way street shall be as follows.

(1) The driver of any vehicle intending to turn right on or off a one-way street shall approach such intended turn in the right-hand lane in the direction of movement and turn right as close as practical to the right-hand curb of the intersecting street or avenue.

(2) The driver of any vehicle intending to enter on any one-way street and turn left in the direction of movement of vehicles thereon shall make such turn left as close as practical into the left lane of traffic on such one-way street.

(3) The driver of any vehicle intending to turn left from a one-way street onto a two-way street shall approach such intersection in the left-hand lane of the one-way street and pass beyond the center line of the intersecting street before making such turn and leaving the intersection.

(4) The driver of any vehicle intending to turn left from a one-way street onto a one-way street shall approach such intended turn in the left-hand lane in the direction of movement and turn left as close as practical to the left-hand curb of the intersecting street or avenue

(2013 Code, § 26-94)

(C) *Traffic control devices.* All moving traffic on or entering onto one-way streets shall observe all traffic control devices installed at all locations thereon.

(2013 Code, § 26-95)

(D) *Changing traffic lanes.* Operators of moving vehicles on one-way streets in changing traffic lanes shall keep a proper look out for all traffic approaching from the rear and make sure that such change in a traffic lane may be made in safety.

(2013 Code, § 26-96)

(E) *Signing.* Signs indicating and controlling one-way streets shall be erected and maintained by the Street Division according to the Federal Highway Administration's *Manual on Uniform Traffic Control Devices*.

(2013 Code, § 26-97)

Penalty, see § 70.999

SCHEDULE III. RECREATIONAL BIKE TRAILS.

(A) *Definitions.* For the purpose of this schedule, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLASS 1 - SHARED USE PATH. A recreational bikeway trail physically separated from motorized vehicular traffic by an open space or barrier and either within the roadway right-of-way or within an independent right-of-way. Bicyclists, pedestrians,

skaters, wheelchair users, joggers and other non-motorized users may use **SHARED USE PATHS**.

CLASS 2 - BICYCLE LANE. A portion of a roadway, which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists. Other non-motorized users may use bicycle lanes when there is no adjacent sidewalk or path facility.

CLASS 3 - SIGNED SHARED ROADWAY. A shared roadway, which has been designated by signing as a preferred route for bicycle use.

RECREATIONAL BIKEWAY TRAIL. A generic term for any road, path or travel way, which in some manner is specifically designated for bicycle travel regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes. Recreational Bikeway Trail Standards are more specifically described in the most current version of the *Iowa Statewide Urban Design Standards Manual (SUDAS)* Ch. 8 as published by Iowa State University Center for Transportation Research and Education.

SHARED ROADWAY. A roadway, which is open to both bicycle and motor vehicle travel. This may be an existing roadway, street with wide curb lanes, or road with paved shoulders. Standards for Shared Roadways are more specifically described in the most current version of the American Association of State Highway and Transportation Officials (AASHTO) *Guide for the Development of Bicycle Facilities*. (2013 Code, § 26-100)

(B) *Bikeways designated.* The following roads, paths or travel ways are hereby officially established as part of the city's Recreational Bikeway Trails Network System:

Street	Location
CLASS 1 - SHARED USE PATHS	
E. Southridge Detention Pond	From Plaza Heights Road to E. Southridge Road
Highway 14/S. Center Street	From Marshalltown Community College to Merle Hibbs Boulevard
Linn Creek/Iowa River Levee Trail	From Grimes Farm Trail to Riverview Park
Merle Hibbs Boulevard	From S. 6th Street Detention Pond to Melissa Lane
CLASS 2 - BICYCLE LANES - WITH PARKING	
Main Street	From 13th Street to 5th Avenue
CLASS 2 - BICYCLE LANES - NO PARKING	
233rd Street	From city limits to Campbell Drive
Campbell Drive	From 233rd Street to Westwood Drive
S. 6th Street	From W. Merle Hibbs Boulevard to S. 3rd Street Viaduct
W. Main Street	From Highland Acres Road to 19th Street
Westwood Drive	From Campbell Drive to S. 6th Street
CLASS 3 - SIGNED SHARED ROADWAY	

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<i>Street</i>	<i>Location</i>
7th Avenue	From Main Street to Woodbury Street
13th Street	From W. Boone Street to Summit Street
Bromley Street	From N. 4th Avenue to N. 7th Avenue
Campbell Drive	From Westwood Drive to Grimes Farm Trail Cutoff
E. Olive Street	From Edgebrook Drive to 12th Avenue
Edgebrook Drive	From E. Southridge Road to E. Olive Street
Glenda Drive	From Marshalltown Center Drive to S. 2nd Avenue
Highland Acres Road	From Lincoln Way to W. Main Street
Jerome Street	From N. 9th Street to N. 3rd Street
Main Street	From 5th Avenue to 7th Avenue
May Street	From S. 7th Avenue to Anson/Linn Creek Levee Trail
Meadow Lane	From S. 6th Street to S. 2nd Avenue
Melissa Lane/Marshalltown Center Drive	From E. Merle Hibbs to Glenda Drive
Merle Hibbs Boulevard	From Center Street to 6th Street
N. 3rd Street	From Main Street to N. Center Street
N. 4th Avenue	From Bromley Street to Woodland Street
N. 9th Street	From Summit Street to Jerome Street
N. 19th Street	From W. Main Street to Summit Street
N. Center Street	From N. 3rd Street to Riverside Street
Nevada Street	From 2nd Street to 3rd Street
Plaza Heights Road	From S. 2nd Avenue to E. Southridge Detention Pond
Riverside Street	From N. Center Street to N. 4th Avenue
S. 2nd Avenue	From Glenda Drive to Plaza Heights Road
S. 2nd Avenue	From Meadow Lane to Thomas Drive
S. 2nd Street	From Main Street to Nevada Street
S. 7th Avenue	From E. Olive Street to May Street
S. 12th Street	From Linn Creek Trail to W. Boone Street
Summit Street	From N. 19th Street to N. 9th Street
Thomas Drive	From S. 2nd Avenue to Edgebrook Drive
W. Boone Street	From S. 13th Street to S. 12th Street
W. Main Street	From 19th Street to 13th Street
Woodbury Street	From N. 7th Avenue to Linn Creek Levee Trail
Woodland Street	From N. 4th Avenue to Iowa River Levee Trail

(2013 Code, § 26-101)

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(C) *Signing and pavement markings.* Signs and pavement markings indicating and controlling bikeways shall be installed, erected and maintained by the Public Works Street Division according to the Federal Highway Administration *Manual of Uniform Traffic Control Devices* (MUTCD).

(2013 Code, § 26-102)

(D) *Traffic control and parking along bikeways.*

(1) All bicyclists, pedestrians, traffic and other users entering or traveling along designated recreational bikeway trails shall observe all traffic control devices installed at all locations thereon.

(2) Unless specifically designated or otherwise approved by the City Engineer and/or Police Chief it shall be unlawful to park on or block off any designated Class 1 - Shared Use Path or Class 2 - Bicycle Lane, except for reasonable temporary emergency or facility maintenance purposes.

(2013 Code, § 26-103)

(Ord. 14781, passed 3-27-2006; Ord. 14840, passed 8-11-2008)

SCHEDULE IV. STOP INTERSECTIONS.

(A) *Stop sign locations.* Moving vehicular or automotive traffic on the following designated streets, Avenues, roads or drives shall stop before entrance into an intersection from the directions herein designated at the following named intersections:

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 1st Avenue at Ferner Street
Northbound	On 1st Avenue at Ferner Street
Southbound	On 1st Avenue at Lincoln Street
Northbound	On 1st Avenue at Lincoln Street
Southbound	On 1st Avenue at Linn Street
Northbound	On 1st Avenue at Linn Street
Southbound	On 1st Avenue at Madison Street
Northbound	On 1st Avenue at Main Street
Southbound	On 1st Avenue at Main Street
Northbound	On 1st Avenue at North Street
Southbound	On 1st Avenue at North Street
Northbound	On 1st Avenue at Riverside Street
Southbound	On 1st Avenue at South Street
Northbound	On 1st Avenue at South Street
Northbound	On 1st Avenue at State Street
Southbound	On 1st Avenue at State Street
Southbound	On 1st Street at Boone Street
Northbound	On 1st Street at Boone Street
Northbound	On 1st Street at Center Street

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<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 1st Street at Church Street
Northbound	On 1st Street at Church Street
Southbound	On 1st Street at Columbus Drive
Northbound	On 1st Street at Columbus Drive
Northbound	On 1st Street at Ingledue Street
Southbound	On 1st Street at Ingledue Street
Northbound	On 1st Street at Lincoln Street
Southbound	On 1st Street at Lincoln Street
Northbound	On 1st Street at Linn Street
Southbound	On 1st Street at Linn Street
Southbound	On 1st Street at Madison Street
Northbound	On 1st Street at Main Street
Southbound	On 1st Street at Main Street
Northbound	On 1st Street at Nevada Street
Southbound	On 1st Street at Nevada Street
Southbound	On 1st Street at Olive Street
Northbound	On 1st Street at State Street
Southbound	On 1st Street at State Street
Northbound	On 1st Street at Washington Street
Northbound	On 2nd Avenue at Anson Street
Northbound	On 2nd Avenue at Church Street
Southbound	On 2nd Avenue at Church Street
Northbound	On 2nd Avenue at Helm Street
Northbound	On 2nd Avenue at Lincoln Street
Southbound	On 2nd Avenue at Lincoln Street
Northbound	On 2nd Avenue at Linn Street
Southbound	On 2nd Avenue at Linn Street
Southbound	On 2nd Avenue at Madison Street
Northbound	On 2nd Avenue at Main Street
Southbound	On 2nd Avenue at Main Street
Northbound	On 2nd Avenue at Olive Street
Southbound	On 2nd Avenue at Olive Street
Northbound	On 2nd Avenue at Riverside Street
Southbound	On 2nd Avenue at South Street
Northbound	On 2nd Avenue at South Street
Northbound	On 2nd Avenue at State Street
Southbound	On 2nd Avenue at State Street

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<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 2nd Street at Boone Street
Northbound	On 2nd Street at Boone Street
Northbound	On 2nd Street at Center Street
Southbound	On 2nd Street at Church Street
Northbound	On 2nd Street at Church Street
Southbound	On 2nd Street at Hibbs Boulevard
Northbound	On 2nd Street at Hibbs Boulevard
Northbound	On 2nd Street at Ingledue Street
Southbound	On 2nd Street at Ingledue Street
Southbound	On 2nd Street at Iowa Avenue West
Southbound	On 2nd Street at Lincoln Street
Northbound	On 2nd Street at Lincoln Street
Northbound	On 2nd Street at Linn Street
Southbound	On 2nd Street at Linn Street
Southbound	On 2nd Street at Madison Street
Northbound	On 2nd Street at Madison Street
Northbound	On 2nd Street at Main Street
Southbound	On 2nd Street at Main Street
Southbound	On 2nd Street at Nevada Street
Northbound	On 2nd Street at Nevada Street
Southbound	On 2nd Street at Nicholas Drive
Northbound	On 2nd Street at Nicholas Drive
Southbound	On 2nd Street at Olive Street
Southbound	On 2nd Street at South Street
Northbound	On 2nd Street at Southridge Road
Northbound	On 2nd Street at State Street
Southbound	On 2nd Street at State Street
Southbound	On 2nd Street at Washington Street
Northbound	On 3rd Avenue at Newcastle Road
Southbound	On 3rd Avenue at Newcastle Road
Southbound	On 3rd Avenue at Olive Street
Northbound	On 3rd Avenue at Olive Street
Northbound	On 3rd Avenue at South Street
Southbound	On 3rd Avenue at South Street
Northbound	On 3rd Avenue at Southridge Road
Southbound	On 3rd Avenue at Southridge Road
Northbound	On 3rd Avenue Place at Thomas Drive

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 3rd Avenue Place at Thunderbird Drive
Southbound	On 3rd Street at Boone Street
Northbound	On 3rd Street at Boone Street
Northbound	On 3rd Street at Center Street
Northbound	On 3rd Street at Church Street
Southbound	On 3rd Street at Church Street
Northbound	On 3rd Street at Edgeland Drive
Southbound	On 3rd Street at Edgeland Drive
Northbound	On 3rd Street at Madison
Southbound	On 3rd Street at Madison
Northbound	On 3rd Street at Main Street
Southbound	On 3rd Street at Main Street
Northbound	On 3rd Street at Olive Street
Southbound	On 3rd Street at State Street
Northbound	On 3rd Street at State Street
Northbound	On 4th Avenue at Anson Street
Northbound	On 4th Avenue at Church Street
Northbound	On 4th Avenue at Linn Street
Southbound	On 4th Avenue at Linnwood Street
Northbound	On 4th Avenue at Linwood Street
Northbound	On 4th Avenue at Marion Street
Southbound	On 4th Avenue at Marion Street
Southbound	On 4th Avenue at Nevada Street
Southbound	On 4th Avenue at State Street
Northbound	On 4th Avenue at Thomas Drive
Southbound	On 4th Avenue at Thunderbird Drive
Northbound	On 4th Avenue at Woodland Street
Southbound	On 4th Street at Boone Street
Northbound	On 4th Street at Boone Street
Northbound	On 4th Street at Bryngelson Drive
Southbound	On 4th Street at Bryngelson Drive
Southbound	On 4th Street at Church Street
Northbound	On 4th Street at Church Street
Southbound	On 4th Street at Edgeland Drive
Northbound	On 4th Street at Edgeland Drive
Northbound	On 4th Street at Ingledue Street
Southbound	On 4th Street at Ingledue Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On 4th Street at Jerome Street
Southbound	On 4th Street at Jerome Street
Northbound	On 4th Street at Linn Street
Southbound	On 4th Street at Linn Street
Northbound	On 4th Street at Madison Street
Southbound	On 4th Street at Madison Street
Northbound	On 4th Street at Main Street
Southbound	On 4th Street at Main Street
Southbound	On 4th Street at Meadow Lane
Northbound	On 4th Street at Meadow Lane
Northbound	On 4th Street at Olive Street
Southbound	On 4th Street at Olive Street
Northbound	On 4th Street at Pleasantview Road
Southbound	On 4th Street at Pleasantview Road
Northbound	On 4th Street at South Street
Southbound	On 4th Street at State Street
Northbound	On 4th Street at State Street
Northbound	On 4th Street at Summit Street
Southbound	On 4th Street at Summit Street
Southbound	On 4th Street at Sunset Lane
Northbound	On 4th Street at Woodland Street
Northbound	On 5th Avenue at Anson Street
Southbound	On 5th Avenue at Anson Street
Northbound	On 5th Avenue at Bromley Street
Southbound	On 5th Avenue at Bromley Street
Northbound	On 5th Avenue at Church Street
Southbound	On 5th Avenue at Church Street
Eastbound	On 5th Avenue at Edgebrook Drive
Northbound	On 5th Avenue at Linn Street
Southbound	On 5th Avenue at Linn Street
Southbound	On 5th Avenue at Linnwood Street
Northbound	On 5th Avenue at Linnwood Street
Northbound	On 5th Avenue at Main Street
Southbound	On 5th Avenue at Main Street
Southbound	On 5th Avenue at Marion Street
Southbound	On 5th Avenue at Newcastle
Northbound	On 5th Avenue at Newcastle

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On 5th Avenue at South Street
Southbound	On 5th Avenue at South Street
Southbound	On 5th Avenue at Southridge Road
Southbound	On 5th Avenue at State Street
Northbound	On 5th Avenue at State Street
Northbound	On 5th Avenue at Thunderbird Drive
Southbound	On 5th Avenue at Thunderbird Drive
Northbound	On 5th Avenue at Woodland Street
Southbound	On 5th Street at Boone Street
Northbound	On 5th Street at Boone Street
Northbound	On 5th Street at Church Street
Southbound	On 5th Street at Church Street
Northbound	On 5th Street at Edgeland Drive
Southbound	On 5th Street at Edgeland Drive
Northbound	On 5th Street at Ingledue Street
Northbound	On 5th Street at Linn Street
Southbound	On 5th Street at Linn Street
Northbound	On 5th Street at Madison Street
Southbound	On 5th Street at Madison Street
Northbound	On 5th Street at Main Street
Southbound	On 5th Street at Main Street
Northbound	On 5th Street at Olive Street
Southbound	On 5th Street at Olive Street
Northbound	On 5th Street at State Street
Southbound	On 5th Street at State Street
Southbound	On 5th Street at Summit Street
Northbound	On 5th Street at Summit Street
Northbound	On 5th Street at Westwood Drive
Southbound	On 6th Avenue at Anson Street
Northbound	On 6th Avenue at Anson Street
Southbound	On 6th Avenue at Church Street
Northbound	On 6th Avenue at Church Street
Northbound	On 6th Avenue at Linn Street
Southbound	On 6th Avenue at Linn Street
Northbound	On 6th Avenue at Main Street
Northbound	On 6th Avenue at Marion Street
Eastbound	On 6th Street at 3rd Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 6th Street at Boone Street
Southbound	On 6th Street at Church Street
Southbound	On 6th Street at Iowa Avenue West
Northbound	On 6th Street at Iowa Avenue West
Southbound	On 6th Street at Linn Street
Southbound	On 6th Street at Madison Street
Northbound	On 6th Street at Madison Street
Southbound	On 6th Street at Main Street
Northbound	On 6th Street at State Street
Southbound	On 6th Street at State Street
Southbound	On 6th Street at Summit Street
Northbound	On 6th Street at Summit Street
Southbound	On 6th Street at Westwood Drive
Northbound	On 6th Street at Westwood Drive
Southbound	On 7th Avenue at Anson Street
Northbound	On 7th Avenue at Anson Street
Northbound	On 7th Avenue at Boone Street
Southbound	On 7th Avenue at Boone Street
Southbound	On 7th Avenue at Linn Street
Northbound	On 7th Avenue at Linn Street
Northbound	On 7th Avenue at Main Street
Southbound	On 7th Avenue at Main Street
Northbound	On 7th Avenue at Marion Street
Southbound	On 7th Avenue at May Street
Northbound	On 7th Avenue at May Street
Southbound	On 7th Avenue at Nevada Street
Northbound	On 7th Avenue at Nevada Street
Northbound	On 7th Avenue at Olive Street
Southbound	On 7th Avenue at Olive Street
Southbound	On 7th Avenue at South Street
Northbound	On 7th Avenue at South Street
Northbound	On 7th Avenue at State Street
Southbound	On 7th Avenue at State Street
Southbound	On 7th Street at Boone Street
Southbound	On 7th Street at Church Street
Northbound	On 7th Street at Church Street
Northbound	On 7th Street at Lincoln Way

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 7th Street at Linn Street
Northbound	On 7th Street at Linn Street
Southbound	On 7th Street at Main Street
Northbound	On 7th Street at Main Street
Northbound	On 7th Street at State Street
Southbound	On 7th Street at State Street
Southbound	On 7th Street at Summit Street
Northbound	On 7th Street at Summit Street
Southbound	On 8th Avenue at Anson Street
Northbound	On 8th Avenue at Anson Street
Northbound	On 8th Avenue at Jackson Street
Southbound	On 8th Avenue at Jackson Street
Northbound	On 8th Avenue at Main Street
Southbound	On 8th Avenue at Main Street
Northbound	On 8th Avenue at Marion Street
Southbound	On 8th Avenue at May Street
Northbound	On 8th Avenue at May Street
Southbound	On 8th Avenue at Nevada Street
Southbound	On 8th Avenue at South Street
Northbound	On 8th Avenue at State Street
Southbound	On 8th Avenue at State Street
Northbound	On 8th Street at Boone Street
Southbound	On 8th Street at Boone Street
Southbound	On 8th Street at Church Street
Northbound	On 8th Street at Church Street
Southbound	On 8th Street at Iowa Avenue West
Northbound	On 8th Street at Iowa Avenue West
Southbound	On 8th Street at Linn Street
Northbound	On 8th Street at Linn Street
Northbound	On 8th Street at Main Street
Southbound	On 8th Street at Main Street
Northbound	On 8th Street at Southridge Road
Southbound	On 8th Street at Southridge Road
Southbound	On 8th Street at State Street
Northbound	On 8th Street at State Street
Southbound	On 8th Street at Summit Street
Northbound	On 8th Street at Summit Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 8th Street at W. Hibbs Boulevard
Northbound	On 9th Avenue at Anson Street
Southbound	On 9th Avenue at Anson Street
Southbound	On 9th Avenue at Henry Drive
Southbound	On 9th Avenue at Main Street
Northbound	On 9th Avenue at May Street
Southbound	On 9th Avenue at May Street
Northbound	On 9th Avenue at South Street
Southbound	On 9th Avenue at South Street
Southbound	On 9th Avenue at State Street
Northbound	On 9th Avenue at State Street
Northbound	On 9th Avenue at Woodbury Street
Northbound	On 9th Street at Lincoln Way
Southbound	On 9th Street at Lincoln Way
Southbound	On 9th Street at Main Street
Northbound	On 9th Street at Main Street
Southbound	On 9th Street at Summit Street
Northbound	On 9th Street at Summit Street
Northbound	On 10th Avenue at Anson Street
Southbound	On 10th Avenue at Main Street
Northbound	On 10th Avenue at Marion Street
Southbound	On 10th Avenue at Olive Street
Southbound	On 10th Avenue at South Street
Southbound	On 10th Avenue at State Street
Northbound	On 10th Avenue at State Street
Southbound	On 10th Street at Boone Street
Northbound	On 10th Street at Boone Street
Northbound	On 10th Street at Church Street
Southbound	On 10th Street at Main Street
Southbound	On 10th Street at State Street
Northbound	On 10th Street at State Street
Northbound	On 10th Street at Summit Street
Northbound	On 11th Avenue at Anson Street
Northbound	On 11th Avenue at Lee Street
Southbound	On 11th Avenue at Lee Street
Southbound	On 11th Avenue at Main Street
Southbound	On 11th Avenue at South Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On 11th Avenue at State Street
Southbound	On 11th Avenue at State Street
Northbound	On 11th Street at Church Street
Southbound	On 11th Street at Main Street
Northbound	On 11th Street at State Street
Southbound	On 11th Street at State Street
Northbound	On 11th Street at Summit Street
Northbound	On 12th Avenue at Main Street
Southbound	On 12th Avenue at Main Street
Northbound	On 12th Avenue at Marion Street
Northbound	On 12th Avenue at Nevada Street
Southbound	On 12th Avenue at Nevada Street
Southbound	On 12th Avenue at Nevada Street
Northbound	On 12th Street at Boone Street
Southbound	On 12th Street at Boone Street
Northbound	On 12th Street at Church Street
Southbound	On 12th Street at Church Street
Southbound	On 12th Street at Iowa Avenue West
Southbound	On 12th Street at Lincoln Way
Northbound	On 12th Street at Lincoln Way
Northbound	On 12th Street at Main Street
Southbound	On 12th Street at Main Street
Southbound	On 12th Street at Olive Street
Southbound	On 12th Street at State Street
Northbound	On 12th Street at State Street
Northbound	On 12th Street at Summit Street
Northbound	On 12th Street at Westwood
Northbound	On 13th Avenue at Marion Street
Northbound	On 13th Avenue at Woodbury Street
Southbound	On 13th Avenue at Woodbury Street
Southbound	On 13th Street at Boone Street
Southbound	On 13th Street at Church Street
Northbound	On 13th Street at Church Street
Southbound	On 13th Street at Church Street
Northbound	On 13th Street at Church Street
Southbound	On 13th Street at Linn Street
Northbound	On 13th Street at Linn Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On 13th Street at Summit Street
Northbound	On 14th Avenue at Boone Street
Southbound	On 14th Avenue at Boone Street
Northbound	On 14th Avenue at Linn Street
Northbound	On 14th Avenue at Marion Street
Southbound	On 14th Avenue at Nevada Street
Southbound	On 14th Avenue at Woodbury Street
Northbound	On 14th Avenue at Woodbury Street
Southbound	On 14th Street at Church Street
Northbound	On 14th Street at Greenfield Drive
Southbound	On 14th Street at Greenfield Drive
Southbound	On 14th Street at Iowa Avenue West
Southbound	On 14th Street at Lincoln Way
Southbound	On 14th Street at Main Street
Northbound	On 14th Street at Main Street
Northbound	On 14th Street at Rolling Meadows Road
Northbound	On 14th Street at Summit Street
Southbound	On 15th Avenue at Anson Street
Southbound	On 15th Avenue at Boone Street
Northbound	On 15th Avenue at Boone Street
Northbound	On 15th Avenue at Jackson Street
Northbound	On 15th Avenue at Linn Street
Northbound	On 15th Avenue at Marion Street
Northbound	On 15th Avenue at Nevada Street
Northbound	On 15th Avenue at Woodbury Street
Southbound	On 15th Avenue at Woodbury Street
Southbound	On 15th Street at Summit Street
Northbound	On 15th Street at Summit Street
Northbound	On 16th Avenue at Boone Street
Southbound	On 16th Avenue at Boone Street
Northbound	On 16th Avenue at Linn Street
Southbound	On 16th Avenue at Nevada Street
Northbound	On 16th Street at Fremont Street
Southbound	On 16th Street at Fremont Street
Northbound	On 16th Street at Main Street
Southbound	On 16th Street at Main Street
Northbound	On 16th Street at State Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On 16th Street at State Street
Northbound	On 16th Street at Summit Street
Southbound	On 16th Street at Summit Street
Northbound	On 17th Avenue at Linn Street
Southbound	On 17th Avenue at Olive Street
Southbound	On 17th Street at Main Street
Southbound	On 17th Street at Summit Street
Southbound	On 18th Avenue at Burns Road
Northbound	On 18th Avenue at Main Street
Southbound	On 18th Avenue at Main Street
Northbound	On 18th Avenue at Marion Street
Northbound	On 18th Street at Summit Street
Southbound	On 19th Avenue at Anson Street
Southbound	On 19th Street at Main Street
Northbound	On 19th Street at Summit Street
Southbound	On 21st Street at State Street
Southbound	On 22nd Street at 233rd Street
Southbound	On 23rd Street at 233rd Street
Southbound	On 25th Street at Main Street
Northbound	On 27th Street at Summit Street
Southbound	On Ann Rutledge Road at Lincoln Way
Westbound	On Anson Street at 12th Avenue
Eastbound	On Anson Street at 12th Avenue
Eastbound	On Anson Street at 18th Avenue
Westbound	On Anson Street at 18th Avenue
Eastbound	On Arlington Drive at 6th Street
Westbound	On Arlington Drive at 6th Street
Westbound	On Arnold Drive at Highland Acres
Northbound	On Austin Place at Merritt Road
Eastbound	On Bailey Drive at Edgebrook Drive
Southbound	On Bailey Drive at Thunderbird Drive
Southbound	On Bel Aire Drive at Lincoln Way
Eastbound	On Benjamin Drive at Governor Road
Westbound	On Benjamin Drive at Joan Terrace
Northbound	On Bittersweet Road at Westwood Drive
Northbound	On Blossom Lane at Thomas Drive
Southbound	On Blossom Lane at Thunderbird Drive

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Eastbound	On Bohen Street at 3rd Avenue
Westbound	On Bohen Street at Center Street
Westbound	On Boone Street at 12th Avenue
Eastbound	On Boone Street at 17th Avenue
Westbound	On Boone Street at 3rd Avenue
Eastbound	On Boone Street at 3rd Street
Westbound	On Boone Street at 3rd Street
Eastbound	On Boone Street at 4th Avenue
Westbound	On Boone Street at 4th Avenue
Eastbound	On Boone Street at 8th Avenue
Westbound	On Boone Street at 8th Avenue
Eastbound	On Boone Street at 9th Street
Westbound	On Boone Street at 9th Street
Southbound	On Brentwood Place at Lincoln Way
Southbound	On Brentwood Road at Lincoln Way
Southbound	On Broadmore Street at South Street
Westbound	On Bromley Street at 10th Avenue
Eastbound	On Bromley Street at 10th Avenue
Westbound	On Bromley Street at 11th Avenue
Eastbound	On Bromley Street at 11th Avenue
Eastbound	On Bromley Street at 12th Avenue
Westbound	On Bromley Street at 3rd Avenue
Eastbound	On Bromley Street at 4th Avenue
Westbound	On Bromley Street at 4th Avenue
Westbound	On Bromley Street at 7th Avenue
Eastbound	On Bromley Street at 7th Avenue
Eastbound	On Bromley Street at 8th Avenue
Westbound	On Bromley Street at 8th Avenue
Eastbound	On Bromley Street at 9th Avenue
Westbound	On Bromley Street at 9th Avenue
Northbound	On Brookside Drive at Olive Street
Westbound	On Bryngelson Drive at 4th Street
Westbound	On Burns Road at Governor Road
Eastbound	On Burns Road at Governor Road
Westbound	On Byron Street at 1st Avenue
Eastbound	On Byron Street at 2nd Avenue
Westbound	On Carson Drive at 6th Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On Catalina Drive at Santa Barbara Drive
Northbound	On Center Street at Lincoln Street
Southbound	On Center Street at Lincoln Street
Southbound	On Center Street at Madison Street
Northbound	On Center Street at Main Street
Southbound	On Center Street at Main Street
Northbound	On Center Street at Nevada Street
Southbound	On Center Street at Nevada Street
Northbound	On Center Street at Lincoln Street
Northbound	On Center Street at State Street
Southbound	On Center Street at State Street
Southbound	On Center Street Frontage Road at Berle Road
Northbound	On Center Street Frontage Road at Hibbs Boulevard
Southbound	On Center Street Frontage Road at Hibbs Boulevard
Southbound	On Center Street Frontage Road at Iowa Avenue W., 500 feet west
Southbound	On Center Street Frontage Road at Nicholas Drive
Northbound	On Center Street Frontage Road at Nicholas Drive
Northbound	On Center Street Frontage Road at Nicholas Drive, 450 feet south
Southbound	On Center Street Frontage Road at Nicholas Drive, 450 feet south
Southbound	On Center Street Frontage Road at Southridge Road
Northbound	On Center Street Frontage Road at Southridge Road
Northbound	On Center Street Frontage Road at Westwood Drive
Eastbound	On Cherry Street at 2nd Avenue
Westbound	On Cherry Street at Center Street
Westbound	On Church Street at 13th Street
Eastbound	On Church Street at 14th Street
Westbound	On Church Street at 18th Avenue
Westbound	On Church Street at 3rd Street
Eastbound	On Church Street at 9th Street
Westbound	On Church Street at 9th Street
Southbound	On Clinton Street at Olive Street
Westbound	On College Drive (north) at Center Street
Westbound	On College Drive (south) at Center Street
Westbound	On Columbus Drive at 2nd Street
Eastbound	On Columbus Drive at 2nd Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Westbound	On Columbus Drive at 4th Street
Eastbound	On Columbus Drive at Center Street
Southbound	On Cooper Lane at Carson Drive
Northbound	On Country Club Lane at Olive Street
Eastbound	On Craig Circle at Edgebrook Drive
Eastbound	On Crestview Drive at Center Street
Northbound	On Crestview Drive at Columbus Drive
Northbound	On Crestview Drive at Olive Street
Southbound	On Crestview Drive at Olive Street
Westbound	On Debra Drive at 6th Street
Southbound	On Debra Drive at Westwood Drive
Southbound	On Denmead Street at Main Street
Northbound	On Denmead Street at State Street
Southbound	On Dubois Circle at Southridge Road
Southbound	On East 3rd Avenue ramp at Madison Street
Westbound	On East Madison Street ramp at 3rd Avenue
Westbound	On East Washington ramp at Center Street
Eastbound	On Eastview Road at Edgebrook Drive
Westbound	On Eastview Road at Rainbow Drive
Eastbound	On EB Hwy 30 off ramp at 18th Avenue
Eastbound	On EB Hwy 30 off ramp at Center Street
Northbound	On Edgebrook Drive at Olive Street
Southbound	On Edgebrook Drive at Southridge Road
Eastbound	On Edgeland Drive at 4th Street
Westbound	On Edgeland Drive at 4th Street
Westbound	On Edgeland Drive at 6th Street
Eastbound	On Edgeland Drive at Center Street
Westbound	On Edgewood Street at 3rd Avenue
Eastbound	On Edgewood Street at 4th Avenue
Westbound	On Edgewood Street at 4th Avenue
Eastbound	On Elder Drive at 18th Avenue
Eastbound	On Elmwood Drive at 6th Street
Westbound	On Elmwood Drive at Hillcrest Drive
Eastbound	On Elmwood Drive at Hillcrest Drive
Northbound	On Elmwood Drive at Olive Street
Eastbound	On Elmwood Drive at Timberline Drive
Westbound	On Elmwood Drive at Timberline Drive

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Westbound	On Fairway Drive at 12th Street
Northbound	On Fairway Drive at 12th Street
Eastbound	On Ferner Street at 1st Street
Westbound	On Ferner Street at 1st Street
Eastbound	On Ferner Street at 2nd Avenue
Westbound	On Ferner Street at 2nd Avenue
Eastbound	On Ferner Street at 3rd Avenue
Westbound	On Ferner Street at 3rd Avenue
Westbound	On Ferner Street at Center Street
Eastbound	On Ferner Street at Center Street
Eastbound	On Ferner Street at Glenwood Terrace
Westbound	On Ferner Street at Glenwood Terrace
Northbound	On Finkle Avenue at Anson Street
Southbound	On Finkle Avenue at South Street
Northbound	On Freiberg Court at Westwood Drive
Eastbound	On Fremont Street at 11th Street
Westbound	On Fremont Street at 11th Street
Westbound	On Fremont Street at 12th Street
Eastbound	On Fremont Street at 12th Street
Westbound	On Fremont Street at 13th Street
Eastbound	On Fremont Street at 3rd Street
Westbound	On Fremont Street at 4th Street
Eastbound	On Fremont Street at 4th Street
Westbound	On Fremont Street at 5th Street
Eastbound	On Fremont Street at 5th Street
Westbound	On Fremont Street at 6th Street
Eastbound	On Fremont Street at 6th Street
Westbound	On Fremont Street at 7th Street
Eastbound	On Fremont Street at 7th Street
Westbound	On Fremont Street at 8th Street
Eastbound	On Fremont Street at 9th Street
Westbound	On Friendly Drive at 3rd Avenue
Eastbound	On Friendly Drive at Edgebrook Drive
Southbound	On Gethmann Drive at Westwood Drive
Westbound	On Glenda Drive at 2nd Avenue
Westbound	On Glenda Drive at Melissa Drive
Northbound	On Glenwood Terrace at Ferner Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On Governor Road at Iowa Avenue east
Southbound	On Governor Road at Iowa Avenue east
Eastbound	On Grant Street at 1st Avenue
Eastbound	On Grant Street at 1st Street
Westbound	On Grant Street at 1st Street
Eastbound	On Grant Street at 2nd Street
Westbound	On Grant Street at 2nd Street
Westbound	On Grant Street at 3rd Street
Eastbound	On Grant Street at Center Street
Westbound	On Grant Street at Center Street
Eastbound	On Harmony Drive at 3rd Avenue
Westbound	On Henry Drive at 7th Avenue
Eastbound	On High Street at 1st Avenue
Westbound	On High Street at 1st Avenue
Westbound	On High Street at 2nd Street
Eastbound	On High Street at 2nd Street
Eastbound	On High Street at 3rd Avenue
Westbound	On High Street at 6th Street
Eastbound	On High Street at 7th Avenue
Westbound	On High Street at 7th Avenue
Westbound	On High Street at 8th Avenue
Eastbound	On High Street at 8th Avenue
Eastbound	On High Street at Center Street
Westbound	On High Street at Center Street
Westbound	On High Street at Finkle Avenue
Southbound	On Highland Acres at Lincoln Way
Northbound	On Highland Acres at Lincoln Way
Northbound	On Highland Acres at Main Street
Southbound	On Hillcrest Drive at Elmwood Drive
Northbound	On Hillcrest Road at Olive Street
Eastbound	On Hughes Street at 4th Street
Westbound	On Hughes Street at 5th Street
Southbound	On Huisman Circle (east) at Columbus Drive
Southbound	On Huisman Circle (west) at Columbus Drive
Westbound	On Industrial Boulevard at 12th Avenue
Eastbound	On Ingledue Street at 2nd Avenue
Westbound	On Ingledue Street at 2nd Avenue

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Eastbound	On Ingledue Street at 3rd Avenue
Eastbound	On Ingledue Street at 4th Street
Westbound	On Ingledue Street at 4th Street
Westbound	On Ingledue Street at 6th Street
Eastbound	On Ingledue Street at Center Street
Westbound	On Ingledue Street at Center Street
Eastbound	On Innes Boulevard at 3rd Street
Westbound	On Iowa Avenue E at 18th Avenue
Eastbound	On Iowa Avenue E at 18th Avenue
Eastbound	On Iowa Avenue W. Frontage Road at 6th Street
Westbound	On Iowa Avenue W. Frontage Road at 8th Street
Westbound	On Jackson Street at 12th Avenue
Eastbound	On Jackson Street at 12th Avenue
Eastbound	On Jackson Street at 9th Avenue
Westbound	On Jackson Street at 9th Avenue
Eastbound	On Jerome Street at 3rd Street
Westbound	On Joan Terrace at 7th Avenue
Southbound	On Kester Road at Benjamin Drive
Southbound	On Knollway at W. Hibbs Boulevard
Northbound	On Knollwood Drive at Olive Street
Eastbound	On Koeper Drive at 3rd Avenue
Eastbound	On Larkfield Court at 12th Street
Southbound	On Larkfield Court at Rolling Meadows Road
Eastbound	On Lee Street at 11th Avenue
Westbound	On Lee Street at 11th Avenue
Eastbound	On Lee Street at 12th Avenue
Westbound	On Lee Street at 3rd Avenue
Westbound	On Lee Street at 4th Avenue
Eastbound	On Lee Street at 4th Avenue
Westbound	On Lee Street at 7th Avenue
Eastbound	On Lee Street at 7th Avenue
Westbound	On Lee Street at 8th Avenue
Eastbound	On Lee Street at 8th Avenue
Northbound	On Leland Court at Joan Terrace
Eastbound	On Leo Street at 3rd Avenue
Eastbound	On Lincoln Street at 3rd Avenue
Westbound	On Lincoln Street at 3rd Street

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Northbound	On Lincoln Tower Circle (east) at Lincoln Way
Northbound	On Lincoln Tower Circle (west) at Lincoln Way
Eastbound	On Lincoln Way at 6th Street
Westbound	On Lincoln Way at Lincoln Way/Madison
Westbound	On Linn Street at 12th Street
Eastbound	On Linn Street at 12th Street
Eastbound	On Linn Street at 13th Street
Westbound	On Linn Street at 13th Street
Eastbound	On Linn Street at 18th Avenue
Eastbound	On Linn Street at 3rd Street
Eastbound	On Linn Street at 4th Avenue
Eastbound	On Linn Street at 8th Avenue
Westbound	On Linn Street at 8th Avenue
Westbound	On Linnwood Street at 3rd Avenue
Eastbound	On Linnwood Street at 5th Avenue
Westbound	On Madison Street at 12th Avenue
Eastbound	On Madison Street at 3rd Street
Westbound	On Madison Street at 3rd Street
Westbound	On Madison Street at 9th Street
Eastbound	On Madison Street at Lincoln Way/Madison
Eastbound	On Main Street at 12th Avenue
Westbound	On Main Street at 12th Avenue
Westbound	On Main Street at 1st Avenue
Eastbound	On Main Street at 1st Avenue
Westbound	On Main Street at 1st Street
Eastbound	On Main Street at 1st Street
Westbound	On Main Street at 2nd Avenue
Eastbound	On Main Street at 2nd Avenue
Westbound	On Main Street at 2nd Street
Eastbound	On Main Street at 2nd Street
Westbound	On Main Street at 3rd Street
Eastbound	On Main Street at 3rd Street
Westbound	On Main Street at 7th Avenue
Eastbound	On Main Street at 7th Avenue
Eastbound	On Main Street at 9th Street
Westbound	On Main Street at 9th Street
Eastbound	On Main Street at 18th Avenue

Marshalltown, IA Code of Ordinances

<i>Direction</i>	<i>Street/Intersection</i>
Westbound	On Main Street at 18th Avenue
Westbound	On Main Street at Center Street
Eastbound	On Main Street at Center Street
Southbound	On Maple Boulevard at Southridge Road
Northbound	On Maple Boulevard at Westwood Drive
Westbound	On Marion Street at 18th Avenue
Eastbound	On Marion Street at 18th Avenue
Eastbound	On Marion Street at 3rd Avenue
Westbound	On Marion Street at 3rd Avenue
Westbound	On Marion Street at Center Street
Westbound	On Market Street at 2nd Avenue
Eastbound	On Market Street at West Madison Street ramp
Westbound	On Market Street at West Madison Street ramp
Southbound	On Marshall Drive (east) at Nevada Street
Southbound	On Marshall Drive (west) at Nevada Street
Eastbound	On May Street at 12th Avenue
Westbound	On May Street at 3rd Avenue
Eastbound	On May Street at 3rd Avenue
Westbound	On Maytag Road at 6th Street
Eastbound	On Maytag Road at 6th Street
Southbound	On Maytag Road at Iowa Avenue West
Westbound	On Meadow Lane at 4th Street
Eastbound	On Meadow Lane at 4th Street
Westbound	On Meadow Lane at 6th Street
Northbound	On Melissa Lane at Southridge Road
Westbound	On Merle Hibbs Boulevard at 18th Avenue
Eastbound	On Merle Hibbs Boulevard at 18th Avenue
Westbound	On Merle Hibbs Boulevard at 6th Street
Westbound	On Merle Hibbs Boulevard at Governor Road
Eastbound	On Merle Hibbs Boulevard at Governor Road
Northbound	On Merrit Road at Lincoln Way
Westbound	On Nelson Road at Highland Acres
Eastbound	On Nevada Street at 12th Avenue
Westbound	On Nevada Street at 12th Avenue
Westbound	On Nevada Street at 12th Street
Eastbound	On Nevada Street at 18th Avenue
Westbound	On Nevada Street at 18th Avenue

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<i>Direction</i>	<i>Street/Intersection</i>
Westbound	On Nevada Street at 1st Avenue
Eastbound	On Nevada Street at 1st Avenue
Eastbound	On Nevada Street at 3rd Street
Westbound	On Nevada Street at 3rd Street
Eastbound	On Nevada Street at 4th Street
Westbound	On Nevada Street at 4th Street
Eastbound	On Nevada Street at 5th Street
Westbound	On Nevada Street at 5th Street
Eastbound	On Nevada Street at 6th Street
Westbound	On Nevada Street at 6th Street
Westbound	On Nevada Street at 9th Street
Eastbound	On Nevada Street at 9th Street
Westbound	On Nevada Street at Center Street
Eastbound	On Nevada Street at Center Street
Westbound	On Newcastle Road at 1st Avenue
Westbound	On Newcastle Road at 3rd Avenue
Eastbound	On Newcastle Road at 3rd Avenue
Eastbound	On Newcastle Road at Edgebrook Drive
Westbound	On Nicholas Drive at 6th Street
Westbound	On North Street at 1st Avenue
Eastbound	On North Street at 1st Avenue
Eastbound	On North Street at 1st Street
Westbound	On North Street at 1st Street
Westbound	On North Street at Center Street
Eastbound	On North Street at Center Street
Eastbound	On Olive Street at 18th Avenue
Westbound	On Olive Street at 18th Avenue
Westbound	On Olive Street at 2nd Avenue
Eastbound	On Olive Street at 2nd Avenue
Eastbound	On Olive Street at 3rd Avenue
Westbound	On Olive Street at 3rd Avenue
Westbound	On Olson Way at 3rd Avenue
Eastbound	On Olson Way at 3rd Avenue
Northbound	On Olson Way at Olive Street
Southbound	On Orchard Drive at Lincoln Way
Eastbound	On Palmer Street at 3rd Avenue
Westbound	On Palmer Street at Center Street

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<i>Direction</i>	<i>Street/Intersection</i>
Eastbound	On Park Street at 3rd Street
Westbound	On Park Street at 4th Street
Eastbound	On Park Street at 4th Street
Northbound	On Parker Avenue at Iowa Avenue West
Westbound	On Pine Street at 2nd Avenue
Eastbound	On Pine Street at 3rd Avenue
Westbound	On Player Street at 6th Street
Northbound	On Plaza Drive at Southridge Road
Westbound	On Pleasantview Road at 4th Street
Eastbound	On Pleasantview Road at 4th Street
Westbound	On Pleasantview Road at 6th Street
Westbound	On Prairie Lane at 12th Street
Westbound	On Rainbow Drive at 3rd Avenue
Eastbound	On Rainbow Drive at 3rd Avenue
Northbound	On Rainbow Drive at Olive Street
Eastbound	On Ratcliffe Drive at 7th Avenue
Westbound	On Ratcliffe Drive at 7th Avenue
Northbound	On Renee Drive at Olive Street
Westbound	On Richard Drive at 6th Street
Eastbound	On Riverside Street at 4th Avenue
Westbound	On Riverside Street at 4th Avenue
Westbound	On Riverside Street at Center Street
Southbound	On Riverview-Campground Circle at Riverview-Campground Road
Southbound	On Riverview-Campground Circle at Woodland Street
Eastbound	On Riverview-Campground Road at Riverview-Campground Circle
Eastbound	On Riverview-Log Cabin Drive at Riverview-Apgar Lane
Westbound	On Riverview-Log Cabin Drive at Riverview-Apgar Lane
Southbound	On Riverview-Reunion Hall Lane at Woodland Street
Eastbound	On Roberts Terrace at 6th Street
Westbound	On Roberts Terrace at 6th Street
Eastbound	On Rolling Meadows Road at 12th Street
Eastbound	On Santa Barbara Drive at Center Street
Northbound	On Sharon Avenue at Marion Street
Northbound	On Sharon Avenue at Woodbury Street
Southbound	On Sharon Avenue at Woodbury Street
Eastbound	On South Street at 12th Avenue

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<i>Direction</i>	<i>Street/Intersection</i>
Eastbound	On South Street at 18th Avenue
Westbound	On South Street at 3rd Avenue
Eastbound	On South Street at 3rd Avenue
Westbound	On South Street at 6th Street
Eastbound	On Southridge Road at 3rd Avenue
Westbound	On Southridge Road at 3rd Avenue
Eastbound	On Southridge Road at 6th Street
Westbound	On Southridge Road at 6th Street
Eastbound	On Southridge Road at Governor Road
Eastbound	On State Street at 7th Avenue
Westbound	On State Street at 7th Avenue
Westbound	On State Street at 12th Avenue
Eastbound	On State Street at 12th Avenue
Westbound	On State Street at 13th Street
Eastbound	On State Street at 16th Street
Westbound	On State Street at 16th Street
Eastbound	On State Street at 19th Street
Westbound	On State Street at 19th Street
Eastbound	On State Street at 3rd Street
Westbound	On State Street at 3rd Street
Westbound	On State Street at 9th Street
Eastbound	On State Street at 9th Street
Eastbound	On State Street at Center Street
Westbound	On State Street at Center Street
Northbound	On Streetegmann Boulevard at Anson Street
Southbound	On Streetratford Lane at Westwood Drive
Southbound	On Sugar Creek Lane at Southridge
Westbound	On Summit Street at 13th Street
Eastbound	On Summit Street at 13th Street
Eastbound	On Summit Street at 3rd Street
Westbound	On Sunset Lane at 6th Street
Southbound	On Sunset Lane at Westwood Drive
Eastbound	On Sunshine Drive at 9th Street
Eastbound	On Swayze Street at 12th Avenue
Westbound	On Swayze Street at 3rd Avenue
Eastbound	On Swayze Street at 4th Avenue
Westbound	On Swayze Street at 4th Avenue

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<i>Direction</i>	<i>Street/Intersection</i>
Westbound	On Swayze Street at 7th Avenue
Eastbound	On Swayze Street at 7th Avenue
Westbound	On Swayze Street at 8th Avenue
Eastbound	On Swayze Street at 8th Avenue
Northbound	On Taft Street at Summit Street
Westbound	On Terry Terrace at 6th Street
Westbound	On Thomas Drive at 3rd Avenue
Eastbound	On Thomas Drive at 3rd Avenue
Eastbound	On Thomas Drive at Edgebrook Drive
Westbound	On Thunderbird Drive at 3rd Avenue
Eastbound	On Thunderbird Drive at 3rd Avenue
Eastbound	On Thunderbird Drive at Edgebrook Drive
Northbound	On Timberline Drive at Elmwood Drive
Southbound	On Timberline Drive at Westwood Drive
Westbound	On Travis Drive at 7th Avenue
Eastbound	On Turner Street at 12th Avenue
Eastbound	On Union Street at 7th Avenue
Westbound	On Union Street at 7th Avenue
Westbound	On Union Street at 8th Avenue
Eastbound	On Union Street at 8th Avenue
Southbound	On Valley View Road at Main Street
Northbound	On Valley View Road at Summit Street
Northbound	On Vermillion Lane at Westwood Drive
Southbound	On Village Circle at Iowa Avenue West
Eastbound	On W. Hibbs Boulevard at 6th Street
Southbound	On Wakefield Drive at Southridge Road
Northbound	On Wakefield Drive at Waukonda Drive
Southbound	On Wakefield Drive at Waukonda Drive
Northbound	On Wakefield Drive at Westwood Drive
Eastbound	On Walters Circle at Edgebrook Drive
Northbound	On Wardview Road at Santa Barbara Drive
Westbound	On Washington Street at 12th Street
Eastbound	On Washington Street at 2nd Street
Westbound	On Washington Street at 2nd Street
Eastbound	On Washington Street at 6th Street
Westbound	On Washington Street at 6th Street
Northbound	On Waukonda Drive at Southridge Road

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<i>Direction</i>	<i>Street/Intersection</i>
Southbound	On Wauconda Drive at Southridge Road
Westbound	On WB Hwy 30 off ramp at 18th Avenue
Westbound	On WB Hwy 30 off ramp at Center Street
Eastbound	On Webster Street at 1st Avenue
Westbound	On Webster Street at 1st Avenue
Westbound	On Webster Street at 1st Street
Eastbound	On Webster Street at 1st Street
Westbound	On Webster Street at 2nd Avenue
Eastbound	On Webster Street at 2nd Avenue
Westbound	On Webster Street at 2nd Street
Eastbound	On Webster Street at 3rd Avenue
Eastbound	On Webster Street at Center Street
Westbound	On Webster Street at Center Street
Southbound	On West 3rd Avenue ramp at Madison Street
Northbound	On West Center Street ramp at Washington Street
Eastbound	On West Madison Street ramp at 3rd Avenue
Eastbound	On West Washington ramp at Center Street
Eastbound	On Westwood Drive at 6th Street
Westbound	On Westwood Drive at 6th Street
Westbound	On Westwood Drive at Campbell
Northbound	On Wilson Circle at Madison Street
Westbound	On Woodbury Street at 10th Avenue
Eastbound	On Woodbury Street at 10th Avenue
Westbound	On Woodbury Street at 11th Avenue
Eastbound	On Woodbury Street at 11th Avenue
Westbound	On Woodbury Street at 12th Avenue
Eastbound	On Woodbury Street at 12th Avenue
Westbound	On Woodbury Street at 3rd Avenue
Eastbound	On Woodbury Street at 4th Avenue
Westbound	On Woodbury Street at 4th Avenue
Eastbound	On Woodbury Street at 7th Avenue
Westbound	On Woodbury Street at 7th Avenue
Eastbound	On Woodbury Street at 8th Avenue
Westbound	On Woodbury Street at 8th Avenue
Westbound	On Woodland Street at 3rd Avenue
Eastbound	On Young Street at 3rd Avenue
Westbound	Intersection of alley from 1st Avenue to 2nd Avenue between Main and Church

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<i>Direction</i>	<i>Street/Intersection</i>
Eastbound	Intersection of alley from 1st Street to 2nd Street between Church and Linn
Eastbound	Intersection of alley from 2nd Avenue to 3rd Avenue between Linn to Nevada
Westbound	Intersection of alley from 2nd Avenue to 3rd Avenue between Linn to Nevada
Eastbound	Intersection of alley from 2nd Avenue to 3rd Avenue between State to Main
Eastbound	Intersection of alley from 2nd Street to 3rd Street between State to Main
Westbound	Intersection of alley from 2nd Street to 3rd Street between State to Main
Eastbound	Intersection of alley from 3rd Avenue to 4th Avenue between Church and Linn
Westbound	Intersection of alley from 3rd Avenue to 4th Avenue between Church and Linn
Eastbound	Intersection of alley from 8th Street to 9th Street between Linn and Boone
Westbound	Intersection of alley from 8th Street to 9th Street between Linn and Boone
Southbound	Intersection of alley from Church to Linn between 1st Street and 2nd Street
Northbound	Intersection of alley from Church to Linn between 2nd Avenue to 3rd Avenue
Northbound	Intersection of alley from Church to Linn between 3rd Avenue to 4th Avenue
Southbound	Intersection of alley from Church to Linn between 3rd Avenue to 4th Avenue
Northbound	Intersection of alley from Grant to State between Center and 1st Avenue
Southbound	Intersection of alley from Grant to State between Center and 1st Street
Southbound	Intersection of alley from Linn to Boone between 8th Street and 9th Street
Northbound	Intersection of alley from Linn to Nevada between 2nd Avenue to 3rd Avenue
Southbound	Intersection of alley from Linn to Nevada between 2nd Avenue to 3rd Avenue
Northbound	Intersection of alley from Main to Church between 2nd Avenue to 3rd Avenue
Southbound	Intersection of alley from Main to Church between Center

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<i>Direction</i>	<i>Street/Intersection</i>
	and 1st Street
Northbound	Intersection of alley from State to Main between 2nd Street and 3rd Street
Southbound	Intersection of alley from State to Main between Center and 1st Street
Westbound	Intersection of alley from State to Main between Center and 1st Street

(2013 Code, § 20-38)

(B) *Stop sign placement.* Stop signs at the intersections referred to herein requiring stops to be made by moving traffic shall be placed and maintained by the Street Division at the right-hand curb or curb line facing traffic.

(2013 Code, § 20-39)

SCHEDULE V. YIELD INTERSECTIONS.

(A) *Yield sign locations.* Moving vehicular traffic or automotive traffic on the following designated streets, avenues, roads or drives shall yield before entrance into an intersection from the directions herein designated at the following named intersections:

<i>Direction</i>	<i>Street/Location</i>
Northbound	On 12th Avenue at Boone Street
Southbound	On 12th Street at Boone Street
Northbound	On 12th Street at Boone Street
Northbound	On 14th Avenue at Anson Street
Southbound	On 14th Avenue at Boone Street
Northbound	On 21st Street at Summit Street
Northbound	On 22nd Street at Summit Street
Northbound	On 5th Street at Jerome Street
Southbound	On 6th Avenue at Boone Street
Northbound	On 6th Avenue at Boone Street
Eastbound	On Boone Street at 8th Avenue
Northbound	On Harrison Drive (east) at Boone Street
Northbound	On Harrison Drive (west) at Boone Street
Southbound	On Riverview-Apgar Lane at Woodland Street

(2013 Code, § 20-40)

(B) *Yield sign placement.* Yield signs at the intersections referred to herein requiring moving traffic to yield shall be placed and maintained by the Street Division at the right-hand curb or curb line facing traffic.

(2013 Code, § 20-41)

SCHEDULE VI. TRAFFIC SIGNAL LOCATIONS.

(A) *Traffic signal locations.* Moving vehicular traffic or automotive traffic at the following designated intersections of streets, avenues, roads or drives shall obey the visual signal indication before entrance into the intersections herein designated at the following named intersections:

<i>Street/Location</i>
3rd Avenue at Main Street
3rd Avenue at Church Street
3rd Avenue at Linn Street
3rd Avenue at Anson Street
3rd Avenue at Riverside Street
3rd Avenue at State Street
6th Street at Olive Street
13th Street at Main Street
Anson Street at 1st Avenue
Center Street at Anson Street
Center Street at South Street
Center Street at Westwood Drive
Center Street at Southridge Road
Center Street at Nicholas Drive
Center Street at Hibbs Boulevard
Center Street at Berle Road
Center Street at Iowa Avenue
Center Street at Olive Street
Center Street at Boone Street
Center Street at Linn Street
Center Street at Church Street
Center Street at Meadow Lane
Governor Rd at Olive Street
Nevada Street at 18th Avenue

(2013 Code, § 20-42)

(B) *Traffic signal installation.* Traffic control signals at the intersections referred to herein requiring moving traffic to stop shall be placed and maintained by the Public Works Department according to the requirements of the Federal Highway Administration *Manual of Uniform Traffic Control Devices for Streets and Highways*.

(2013 Code, § 20-43)

(C) *Unauthorized signs, signals or markings.*

(1) No person shall place, maintain or display upon or in view of any highway any sign, signal, marking or device which purports to be or is an imitation of or resembles an official parking sign, curb or other marking, traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, if such sign, signal, marking or device has not been authorized by the state's Department of Transportation or the Council with reference to streets and highways under its jurisdiction. No person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information of a type that cannot be mistaken for official signs. All, except that all erected signs, shall conform to §§ 156.550 through 156.552 of this code of ordinances.

(2) Every such prohibited sign, signal or marking is declared to be a public nuisance, and the authority having jurisdiction over the highway is empowered to remove the sign, signal or marking or cause it to be removed without notice.

(2013 Code, § 20-44)

(D) *Interference with devices; unlawful possession.*

(1) Any person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down or removes an official traffic control device; an authorized warning sign or signal or barricade, whether temporary or permanent; a railroad sign or signal; an inscription, shield or insignia on any of such devices, signs, signals or barricades or any other part thereof shall, upon conviction, be guilty of a misdemeanor.

(2) It shall be unlawful for any person to have in his or her possession any official traffic control device, except because of his or her employment.

(2013 Code, § 20-45)

(E) *Penalty.* Anyone violating the provisions of this schedule shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 20-46)

(Ord. 68, passed 8-14-1950; Ord. 14937, passed 1-26-2015; Ord. 14970, passed 11-27-2017)

Statutory reference:

Similar provisions, see I.C.A. §§ 321.259, 321.260

SCHEDULE VII. SCHOOL ZONES.

(A) *Zones established.* The following school zones are established to include the parts of streets herein set forth:

School	Location
Anson Elementary	On South 3rd Avenue from Ferner Street to May Street; on East South Street from South 5th Avenue to South 2nd Avenue; on East Anson Street from

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<i>School</i>	Location
	South 5th Avenue to South 2nd Avenue
Fisher Elementary School	On South 6th Street from Sunset Lane to Edgeland Drive; on Pleasantview Drive from South 6th Street to Bryngelson Drive; on South 4th Street from Sunset Lane to Edgeland Drive; on Meadow Lane from South 6th Street to South 3rd Street
Franklin Elementary School	On West Main Street from 400 feet west of South 14th Street to South 12th Street; on 14th Street from Church Street to State Street; on 13th Street from Church Street to State Street
Hoglan Elementary School	On East Southridge Road from Sugar Creek Lane to 5th Avenue; on South 3rd Avenue from Newcastle Road to Melody Lane
Lenihan Intermediate School and St. Henry's Elementary School	On South 4th Street from Edgeland Drive to 400 feet north of Ingledue Street; on West Ingledue Street from 5th Street to 1st Street; on South 2nd Street from Ferner Street to Olive Street; on Crestview Drive from Columbus Drive to Olive Street; on Columbus Drive from 4th Street to 2nd Street; on West Olive Street from 2nd Street to 5th Street
Marshalltown High School	On South 2nd Avenue from Ingeldue Street to Koeper Drive; on East Olive Street from Center Street to Edgebrook Drive; on South 3rd Avenue from Ingeldue Street to Koeper Drive
Miller Middle School	On South 9th Street from Boone Street to Church Street; on South 11th Street from Boone Street to Church Street; on West Church Street from 9th Street to 12th Street; on West Linn Street from 11th Street to 12th Street; on West Boone Street from 9th Street to 12th Street
Rogers Elementary School	On Summit Street from 6th Street to 3rd Street; on 4th Street from Jerome Street to State Street; on Fremont Street from 3rd Street to 6th Street; on 5th Street from Jerome Street to State Street
St. Mary's Elementary School	On West Linn Street from Center Street to 2nd Street; on South 1st Street from Nevada Street to Church Street; on West Boone Street from Center Street to 2nd Street; on South Center Street from Boone Street to Church Street
Woodbury Elementary School	On East State Street from 5th Avenue to 8th Avenue; on 7th Avenue from Church Street to Bromley Street; on East Main Street from 5th Avenue to 8th Avenue

(2013 Code, § 20-46.1)

(B) *Sign material and placement standards.* Movable stop signs shall meet minimum material design standards as outlined in the most current Federal Highway Administration (FHWA) *Manual of Uniform Traffic Control Devices (MUTCD)* and FHWA Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians. Movable stop signs may be placed within the designated school zone at such locations as approved by written agreement between the respective school system and the city. Movable stop signs shall be placed in the street in accordance with the traffic safety regulations of the state's Department of Transportation, if any, and, if none, they shall be placed in the center of the intersection, crosswalk or as otherwise specifically approved by the City Engineer.

(2013 Code, § 20-46.2)

(C) *Time of placement.*

(1) Movable stop signs can be placed in the street near the respective schools at the approved locations no sooner than one hour before and must be removed within one hour after applicable regularly scheduled school session start times. Movable stop signs can also be placed in the street near the respective schools at the approved locations no sooner than one hour before and must be removed within one hour after applicable regularly scheduled school session dismissal times.

(2) The city must specifically approve any variations to the movable stop sign time of placement standards.

(2013 Code, § 20-46.3)

(D) *Vehicles to stop.* All motor vehicles approaching said movable stop sign locations shall stop before entering said locations when such movable stop signs have been placed in the street at approved locations within the school zones.

(2013 Code, § 20-46.4)

(E) *School zone speed limit.* The maximum speed limit within the school zones is established at 25 mph unless otherwise approved and posted.

(2013 Code, § 20-46.5)

(F) *Obedience.* All motor vehicles moving through the above described school zones shall be governed by, and all drivers thereof shall observe, all traffic control devices or signs as shall be installed for the control or movement of motor vehicle traffic.

(2013 Code, § 20-46.6)

(G) *Speed signs.* Appropriate signs indicating the maximum rate of speed of moving vehicles entering the school zone as herein established shall be erected and maintained by the city to advise the operators of motor vehicles using said streets or highways of the maximum rate of speed, as is herein defined or established, in the school zones in which entrance is being made.

(2013 Code, § 20-46.7)

(H) *Exemptions.* All emergency vehicles including police, fire and ambulance services, when responding to emergency service calls, are exempt from the provisions of this schedule, on the condition that notice of the approach of such vehicles into the school zones is given by the sounding of a loud siren, bell or other loud signaling device.

(2013 Code, § 20-46.8)

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(I) *Penalties.* Any driver in violation of observing the traffic control sign provisions of this schedule shall be subject to fines and/or other penalties as outlined in this traffic code and the state's Motor Vehicle and Traffic Code.
(2013 Code, § 20-46.9)

SCHEDULE VIII. SPEED LIMITS.

(A) *Speed restrictions.*

(1) Any person driving a motor vehicle on a highway shall drive the vehicle at a careful and prudent speed not greater than or less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and of any other conditions then existing, and no person shall drive any vehicle upon a highway at a speed greater than will permit him or her to bring the vehicle to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using the highway will observe the law.

(2) The following shall be the lawful speed, and except as modified, any speed in excess thereof shall be unlawful:

- (a) In any business district: 20 mph;
- (b) In any residence or school district: 25 mph;
- (c) For any motor vehicle drawing another vehicle, except as otherwise specified: 40 mph; and
- (d) In any suburban district: 45 mph.

(3) The maximum speed limits on the following designated streets, avenues, roads or drives is hereby established at the rates designated as follows:

<i>On Street</i>	<i>From Street</i>	<i>To Street</i>	<i>mph</i>
12th Avenue/Governor Road	Anson Street	Merle Hibbs Boulevard	35
12th Avenue/Governor Road	East Merle Hibbs Boulevard	Southerly city limits	45
12th Avenue	Main Street	Anson Street	30
12th Street	1,500 feet south of Westwood Drive	Prairie Lane	45
12th Street	Lincoln Way	Olive Street	35
12th Street	Westwood Drive	1,500 feet south	35
18th Avenue	500 feet south of E. Anson Street	Hwy 30	55
18th Avenue	Hwy 30	Burns Road	35
18th Avenue	Marion Street	500 feet south of E. Anson Street	35
18th Avenue	Marion Street	Jackson Street	35
1st Avenue	State Street	Church Street	20
1st Street	State Street	Church Street	20

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<i>On Street</i>	<i>From Street</i>	<i>To Street</i>	<i>mph</i>
2nd Avenue	State Street	Church Street	20
2nd Street	State Street	Church Street	20
233rd Street	Westerly city limits	Campbell Drive	35
3rd Avenue	200 feet north of Boone Street	Anson Street	35
3rd Avenue	North city limits	200 feet north of Woodland Street	45
3rd Avenue	200 feet north of Woodland	100 feet north of Bromley Street	35
3rd Street	Madison Street	6th Street	35
6th Street	3rd Street	Iowa Avenue West	35
6th Street, when school flash is on	Meadow Lane	Westwood Drive	25
Anson Street	12th Avenue	Beer Garden Road	35
Anson Street	3rd Avenue	12th Avenue	30
Anson Street	Center Street	3rd Avenue	35
Campbell Drive	233rd Street	Olive Street	35
Center Street	Nevada Street	Nicholas Drive	35
Center Street	Iowa Avenue	3,000 feet south of Iowa Avenue	50
Center Street	Nicholas Drive	Iowa Avenue	45
Center Street	State Street	Church Street	20
Church Street	3rd Street	4th Avenue	20
Church Street	4th Avenue	7th Avenue	30
Church Street	9th Street	3rd Street	30
Governor Road	Merle Hibbs Boulevard	South city limits	35
Highland Acres Road	Main Street	South city limits	35
Hwy 30	West city limits	East city limits	65
Iowa Avenue E.	12th Street	Rose Hill Cemetery	50
Iowa Avenue W.	Parker Avenue	12th Street	55
Iowa Avenue W.	Rose Hill Cemetery	East city limits	55
Lincoln Way	Orchard Drive	12th Street	35
Lincoln Way	12th Street	9th Street	30
Lincoln Way	West city limits	Orchard Drive	45
Linn Street	4th Avenue	8th Avenue	30
Lincoln Way/Madison	9th Street	6th Street	30
Madison Street	6th Street	4th Avenue	30
Main Street	12th Avenue	400 feet east of 18th	35

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<i>On Street</i>	<i>From Street</i>	<i>To Street</i>	<i>mph</i>
		Avenue	
Main Street	13th Street	3rd Street	30
Main Street	20th Street	14th Street	30
Main Street	3rd Avenue	8th Avenue	25
Main Street	3rd Street	3rd Avenue	20
Main Street	400 feet east of 18th Avenue	East city limits	55
Main Street	5th Avenue	12th Avenue	30
Main Street	Highland Acres	20th Street	45
Marion Street	N. Center Street	N 1st Avenue	10
Marion Street	3rd Avenue	18th Avenue	30
Nevada Street	18th Avenue	Quarry Road	35
Nevada Street	4th Avenue	12th Avenue	35
Nicholas Drive	3rd Street	Center Street	35
Olive Street	18th Avenue	East city limits	45
Olive Street	6th Street	Campbell Drive	35
Olive Street	Rainbow Drive	18th Avenue	35
Quarry Road	Nevada Street	East to city limits	35
Riverview Park Road			15
Southridge Road	Edgebrook Drive	Governor Road	35
State Street	3rd Street	3rd Avenue	20
Summit Street	22nd Street	9th Street	30
Summit Street	Valley View Road	22nd Street	45
West Merle Hibbs Boulevard	South Center Street	South 6th Street	35
Westwood Drive	6th Street	Campbell Drive	35
Westwood Drive	6th Street	Freiburg Court	25
Woodland Street	3rd Avenue	East to end	15

(2013 Code, § 20-78)

(B) *Speed limit signs.* Appropriate signs indicating the maximum rate of speed of moving vehicles within the speed zones above created shall be erected and maintained by the Public Works Department to advise the operators of motor vehicles using said streets or highways of the maximum rate of speed as is herein defined or established in the districts in which entrance is being made.

(2013 Code, § 20-79)

(Ord. 68, passed 8-14-1950; Ord. 14881, passed 2-14-2011; Ord. 14892, passed 11-28-2011; Ord. 14915, passed 2-25-2013) Penalty, see § 70.999

CHAPTER 77: PARKING SCHEDULES

Schedule

- I. Special exclusion parking
- II. No parking any time
- III. Parking around schools
- IV. Community School District staff and employee parking
- V. Residential/owner parking permits
- VI. Restricted parking
- VII. Snow removal; parking prohibited
- VIII. Snow routes
- IX. Disabled parking
- X. Public access parking

SCHEDULE I. SPECIAL EXCLUSION PARKING.

This schedule shall have no application and is expressly declared to be inapplicable to the existing parking ordinances for regulations in regard to parking on the following portions of streets and avenues:

Side	On Street	From	To
Both	N. 13th Street	Summit Street	Main Street
Both	S. 2nd Avenue	South line of Glenda Drive	South 70 feet
West	S. 2nd Street	Southridge Drive	Nicholas Drive
Both	S. 3rd Avenue	Linn Street	Anson Street
Both	N. 4th Avenue	East Main Street	East State Street
Both	Bittersweet Road		
Both	Fieldcrest Court		
Both	Freiberg Court		
Both	Greenfield Drive		
Both	Larkfield Court		
Both	E. Linn Street	3rd Avenue	4th Avenue
Both	Rolling Meadows Road		
Other streets designated with painted parking spaces.			
Other streets otherwise designated or not posted with alternate parking signs.			

(2013 Code, § 20-160.6)

SCHEDULE II. NO PARKING ANY TIME.

Marshalltown, IA Code of Ordinances

(A) *No parking any time.* The parking of vehicles is hereby prohibited at all times on certain streets and locations hereafter set forth as follows:

Side	On Street	From	To
West	N. 10th Avenue	Marion Street	Bromley Street
East	N. 10th Avenue	Marion Street	Lee Street
East	N. 10th Avenue	Lee Street	Woodbury Street
East	S. 11th Street	W. Church Street	W. Boone Street
Both	N. 12th Avenue	North line of E. Main Street	80 feet north
Both	S. 12th Avenue	Main Street	South city limits
East	S. 13th Street	W. Church Street	W. Linn Street
East	S. 14th Avenue	South line of E. Linn Street	A point 60 feet south
East	N. 14th Street	W. Main Street	W. State Street
Both	S. 15th Avenue	South line of E. Nevada Street	60 feet south
Both	S. 15th Avenue	Jackson Street	Anson Street
Both	S. 16th Avenue	North line of E. Nevada Street	40 feet north
East	N. 16th Street	Kalsem Boulevard	River Boulevard
West	N. 16th Street	W. Main Street	W. State Street
Both	18th Avenue	Marion Street	South city limits
East	N. 1st Avenue	South line of east-west alley between Main Street and State Street	Thence 35 feet south
West	S. 1st Avenue	South line of east-west alley between Main Street and State Street	To a point 20 feet south
West	S. 1st Avenue	A point 78 feet north of the north line of Madison Street	126 feet north
East	S. 1st Avenue	E. Nevada Street	E. Madison Street
East	S. 1st Avenue	120 feet north of the north line of E. Nevada Street	60 feet north
West	S. 1st Avenue	North line of E. Nevada Street	180 feet north
East	S. 1st Avenue	South property line of Boone Street	A point 186 feet south
West	S. 1st Street	Boone Street	A point 40 feet north
West	S. 1st Street	Washington Street South	Main entrance of YM-YW Building
Both	Washington/Player Streets	S. 2nd Street	S. 6th Street
East	S. 2nd Avenue	W. Madison Street	Nevada Street

Marshalltown, IA Code of Ordinances

Side	On Street	From	To
East	S. 2nd Avenue	North alley line of the alley south of Linn Street	North 25 feet
West	S. 2nd Avenue	75 feet south of south line of E. Church Street	South 20 feet
Both	S. 2nd Street	Beginning at a point 53 feet south of the south line of W. Southridge Road	Thence 80 feet south
East	S. 2nd Street	Southridge Road	Nicholas Drive
Both	S. 3rd Avenue	South line of Newcastle Road	420 feet south
East	S. 3rd Avenue	E. Anson Street	200 feet south of the south line of E. Anson Street
East	S. 3rd Avenue	North line of Southridge Road	A point 750 feet north
Both	N. 3rd Avenue	Anson Street	North city limits
West	N. 3rd Street	South line of W. State Street	60 feet south
West	N. 3rd Street	North line of Summit Street	North 100 feet
East	N. 3rd Street	20 feet north of the north line of Summit Street	100 feet south of the south line of Summit Street
East	S. 3rd Street	W. Nevada Street	W. Madison Street
West	S. 3rd Street	W. Madison Street	South line of east and west alley between 3rd Street and 4th Street
Both	S. 3rd Street	S. 6th Street	W. Madison Street
West	N. 3rd Street	Main Street	50 feet north
East	S. 4th Avenue	South alley line of the alley south of Linn Street	South 25 feet
East	N. 4th Avenue	North right-of-way line of Woodbury Street	55 feet north
Both	S. 4th Avenue	Linn Street	Church Street
West	S. 4th Avenue	Nevada Street	Linn Street
Both	N. 4th Street	20 feet south of the south line of the alley south of Summit Street	20 feet north of the north line of the alley south of Summit Street
East	S. 4th Street	W. Ingledue Street	W. Olive Street
West	N. 5th Street	South line of the alley south of Summit Street	60 feet south
East	S. 6th Avenue	E. Anson Street	E. May Street

Marshalltown, IA Code of Ordinances

Side	On Street	From	To
Both	S. 6th Street	Iowa Avenue	The intersection of S. 6th Street and S. 3rd Street (S. 6th Street connection)
Both	S. 6th Street	S. 3rd Street - S. 6th Street connection	Chicago NW Railroad Tracks
East	S. 6th Street	W. Main Street	W. Madison Street
Both	N. 7th Avenue	E. Main Street	E. State Street
East	N. 7th Avenue	E. State Street	Bromley Street
East	N. 8th Avenue	E. Main Street	E. State Street
East	N. 9th Avenue	Woodbury Street	State Street
West	N. 9th Avenue	Bromley Street	State Street
East	N. 9th Avenue	E. Main Street	North to first alley intersection
West	N. 9th Street	Beginning at a point 100 feet south of the south line of Summit Street	Thence 25 feet south
Both	N. 9th Street	South line of Summit Street	South 100 feet
Both	S. 9th Street	North line of Lincoln Way	A point 100 feet north of the north line of W. State Street
Both	Anson Street	480 feet west of the centerline of S. Center Street	S. 4th Avenue
Both	E. Anson Street	S. 12th Avenue	Stegman Boulevard
Both	E. Anson Street	S. Center Street	S. 4th Avenue
Both	W. Anson Street	300 feet from intersection with S. Center Street	S. Center Street
		Any terrace	Between curb and sidewalk
Both	Bohen Street	S. Center Street	S. 1st Avenue
Both	W. Boone Street	S. 9th Street	S 12th Street
North	W. Boone Street	S. 6th Street	1/2 block east
South	W. Boone Street	S. 6th Street	160 feet west
South	E. Boone Street	S. 1st Avenue	S. 2nd Avenue
North	E. Boone Street	East line of S. Center Street	110 feet east
East	N. Center Street	South line of alley adjacent to Lot 6, Block 10 of original plat of Marshalltown (19 N. Center Street)	35 feet south
Both	S. Center Street	Church Street	South city limits

Marshalltown, IA Code of Ordinances

<i>Side</i>	<i>On Street</i>	<i>From</i>	<i>To</i>
Both	S. Center Street Frontage Road	Berle Road	Westwood Drive
Both	S. Center Street ramps	Washington Street	South end of Center Street viaduct
North	W. Church Street	East line of S. 3rd Street	60 feet east
Both	W. Church Street	West line of S. 9th Street	100 feet west
North	E. Church Street	S. 3rd Avenue	S. 5th Avenue
South	E. Church Street	East line of S. 3rd Avenue	A point 60 feet east of east line of S. 4th Avenue
Both	W. Church Street	East property line of S. 9th Street	A point 50 feet east
Both	W. Church Street	West property line of S. 9th Street	A point 50 feet west
South	W. Church Street	S. 2nd Street	S. 3rd Street
Both	E. and W. 3rd Avenue ramps	S. 3rd Avenue	Nevada-Madison Street connection
Both	Edgebrook Drive	South line of E. Olive Street	A point 85 feet south
Both	Fremont Street	East line of N. 27th Street	A point 50 feet east
North	W. Fremont Street	N. 16th Street	N. 18th Street
Both	W. Hibbs Boulevard	S. Center Street	S. 2nd Street
North	W. High Street	West line of S. 2nd Street	West 500 feet
South	W. High Street	6th Street	West line of 2nd Street
Both	Iowa Avenue	East city limits	West city limits
Both	Jackson Street	S. 12th Avenue	S. 15th Avenue
Both	W. Lincoln Way	9th Street	West city limits
North	W. Linn Street	20 feet east of the east line of S. 3rd Street east 160 feet	East 180 feet to the west line of the alley
North	E. Linn Street	S. Center Street	S. 3rd Avenue
North	E. Linn Street	A point 20 feet west of the west line of the north-south alley between 4th Avenue and 5th Avenue	West line of said alley
Both	E. Linn Street	S. 14th Avenue	S. 18th Avenue
Both	E. Linn Street	Center Street	S. 3rd Avenue
North	W. Linn Street	East line of S. 13th Street	Extending east 180 feet
Both	E. Linn Street	East line of S. 3rd Avenue east one-half block	West line of first north and south alley

Marshalltown, IA Code of Ordinances

Side	On Street	From	To
			intersecting E. Linn Street
Both	N. Linwood Street	N. 4th Avenue	N. 3rd Avenue
Both	Madison Street	S. 4th Avenue	S. 9th Street
North	E. Main Street	A point 68 feet east of the east right- of-way line of S. 3rd Avenue	A point 100 feet east
North	E. Main Street	East line of 3rd Avenue	28 feet east
South	E. Main Street	40 feet west of the west line of N. 4th Avenue	85 feet east
North	W. Main Street	West line of north-south alley between 2nd and 3rd Streets	A point 25.5 feet west
Both	E. Main Street	12th Avenue	East city limits
Both	W. Main Street	8th Avenue	9th Avenue
Both	W. Main Street	19th Street	West city limits
Both	E. Meadow Lane	S. Center Street	S. 2nd Avenue
Both	Marion Street	N. 3rd Avenue	N. 18th Avenue
North	Marion Street	N. 2nd Avenue	N. 3rd Avenue
Both	E. Nevada Street	East line of S. 1st Avenue	To a point 196.5 feet east
Both	E. Nevada Street	S. 4th Avenue	S. 18th Avenue
South	E. Nevada Street	S. Center Street	S. 1st Avenue
South	Nicholas Drive	East line of S. 2nd Street	East 105 feet
Both	E. North Street	N. Center Street	N. 2nd Avenue
Both	W. Olive Street	S. 6th Street	S. 12th Street
Both	E. Olive Street	S. Center Street	East city limits
Both	Riverside Street	2nd Avenue	N. 3rd Avenue
South	W. South Street	West line of S. Center Street	West 156 feet
North	W. South Street	West line of Center Street	A point 360 feet west
Both	E. South Street	S. Center Street	S. 3rd Avenue
North	E. South Street	East line of S. 3rd Avenue	The entrance to the Anson School parking lot
South	E. Southridge Road	Beginning at a point 208 feet east of the east line of Plaza Drive	Thence east 180 feet
South	E. Southridge Road	East line of S. Center Street	190 feet east
Both	W. Southridge	West line of Center Street	A point 350 feet west

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Side	On Street	From	To
	Road		
North	E. Southridge Road	East line of S. Center Street	750 feet east
Both	W. State Street	East line of N. 7th Street	East 100 feet
Both	E. State Street	West property line of N. 7th Avenue	A point 65 feet west
Both	W. State Street	East property line of N. 9th Street	A point 50 feet east
Both	W. State Street	West property line of N. 9th Street	A point 50 feet west
North	E. State Street	N. 3rd Avenue	N. 4th Avenue
Both	E. State Street	East line of N. 5th Avenue	West line of N. 9th Avenue
Both	Summit Street	East line of N. 21st Street	270 feet east
North	Summit Street	West line of N. 4th Street	60 feet west
South	Swayze Street	10th Avenue	11th Avenue
South	Swayze Street	N. 3rd Avenue	N. 4th Avenue
North	Turner Street	S. 9th Avenue	S. 12th Avenue
Both	Village Circle	North edge of the pavement of Highway 30	50 feet north
South	Westwood Drive	West line of S. 6th Street	250 feet west
Both	Westwood Drive	West property line of Center	A point 570 feet west
Both	Wilson Circle	South line of Madison Street	100 feet south
South	Woodbury Street	N. 9th Avenue	N. 10th Avenue
Both	Woodbury Street	West line of N. 9th Avenue	170 feet

(2013 Code, § 20-161)

(B) *Appropriate signs for prohibited parking.* Appropriate signs stating thereon "NO PARKING AT ANY TIME" shall be placed and maintained by the Street Division adjacent to the curb along the portions of the streets and avenues included in the provisions of this schedule where parking at all times is prohibited.

(2013 Code, § 20-161.1)

(C) *Removal of vehicles on controlled streets and avenues.*

(1) Any vehicle left standing or parked in the controlled area as herein prescribed, contrary to the provisions hereof, may be towed away or removed by direction of the Chief of Police and the cost of any towing or storage of such motor vehicle shall be paid by the owner or other persons responsible therefor as a condition in again obtaining possession thereof, and such charges shall not be considered as a fine or penalty.

(2) A fine or penalty may be further assessed upon charges filed and conviction thereof.

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(2013 Code, § 20-161.2)

((Ord. 14879, passed 3-28-2011; Ord. 14944, passed 1-11-2016; Ord. 14982, passed 5-28-2019)

Penalty, see § 70.999

SCHEDULE III. PARKING AROUND SCHOOLS.

(A) *Parking around schools.* The stopping, parking or leave standing of motor vehicles on the following streets and avenues in the city is hereby prohibited at all times, except as provided in division (B) below:

Side	On Street	From	To
ANSON SCHOOL			
East	S. 3rd Avenue	E. South Street	E. Anson Street
West	S. 3rd Avenue	E. South Street	Young Street
North	E. South Street	S. 3rd Avenue	S. 5th Avenue
FISHER SCHOOL			
Both sides	S. 4th Street	Sunset Lane	Pleasantview Road
North	Pleasantview Road	S. 6th Street	S. 4th Street
West	S. 4th Street	Pleasantview Road	W. Meadow Lane
FRANKLIN SCHOOL			
East	N. 14th Street	W. Main Street	435 feet north
North	W. Main Street	N. 14th Street	N. 13th Street
*South	W. Main Street	N. 13th Street	N. 14th Street
*School days only	7:00 a.m.	4:00 p.m.	
HOGLAN SCHOOL			
East	S. 3rd Avenue	E. Southridge Road	Newcastle Road
North	E. Southridge Road	S. 3rd Avenue	525 feet east
LENIHAN SCHOOL			
North	Columbus Drive	S. 4th Street	120 feet east
**North	Ingledue Street	2nd Street	4th Street
**School days only	7:00 a.m. - 9:00 a.m.	2:00 p.m. - 4:00 p.m.	
South	W. Ingeldue Street	S. 4th Street	S. 2nd Street
**West	S. 4th Street	Ingledue Street	Columbus Drive
**School days only	7:00 a.m. - 9:00 a.m.	2:00 p.m. - 4:00 p.m.	
MILLER MIDDLE SCHOOL			
North	W. Boone Street	S. 12th Street	S. 11th Street
ROGERS SCHOOL			
West	N. 4th Street	Summit Street	Fremont Street

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Side	On Street	From	To
East	N. 5th Street	Summit Street	Fremont Street
South	Summit Street	N. 5th Street	N. 4th Street
SENIOR HIGH SCHOOL			
East	S. 2nd Avenue	E. Olive Street	E. Ingledue Street
North	E. Olive Street	S. 2nd Avenue	West line of Bobcat Estates
ST. HENRY SCHOOL			
East	S. 4th Street	W. Olive Street	W. Ingledue Street
South	Columbus Drive	S. 4th Street	Crestview Drive
West	Crestview Drive	Columbus Drive	W. Olive Street
North	W. Olive Street	Crestview Drive	S. 4th Street
ST. MARY'S SCHOOL			
East	S. 1st Street	W. Linn Street	W. Boone Street
South	W. Linn Street	S. 1st Street	S. Center Street
WOODBURY SCHOOL			
South	E. State Street	N. 7th Avenue	N. 5th Avenue
West	S. 7th Avenue	E. State Street	E. Main Street
North	E. Main Street	N. 7th Avenue	N. 4th Avenue

(2013 Code, § 20-162)

(B) *Temporary stops.* Temporary stops for the sole purposes of immediate discharge or immediate loading of students shall be permitted, but only in the event that off-street areas for such discharge or loading do not exist within 300 feet of any exit door of said school. Any such temporary stop shall be for a duration of the shortest possible time necessary to discharge or load students, shall be done in a manner that will not impede or hamper general traffic and the driver shall remain in the vehicle.

(2013 Code, § 20-162.1)

(C) *Parking on opposite side.* In any of the aforesaid school areas where parking is presently allowed on the opposite side of the portions of the streets designated as prohibited parking by this schedule, parking shall be allowed at all times, notwithstanding the provisions within this traffic code.

(2013 Code, § 20-162.2)

(D) *Sign placement.* There shall be erected suitable lawful signs in appropriate and conspicuous places on said various streets and avenues stating that parking is prohibited or allowed in clear and concise language. Signs shall include the wording "Passenger loading and unloading only. Driver must remain in vehicle".

(2013 Code, § 20-162.3)

(Ord. 14198, passed 9-24-1984; Ord. 14225, passed 11-12-1985; Ord. 14789, passed 10-23-2006; Ord. 14818, passed 9-10-2007; Ord. 14828, passed 3-18-2008; Ord. 14974, passed 6-11-2018) Penalty, see § 70.999

SCHEDULE IV. COMMUNITY SCHOOL DISTRICT STAFF AND EMPLOYEE PARKING.

(A) *Providing for residential/owner and Marshalltown Community School District staff and employee parking.*

(1) From 7:00 a.m. to 5:00 p.m., Monday through Friday of each week, except legal holidays, no motor vehicle shall be parked in the designated municipal areas set forth below unless said motor vehicle has visibly affixed to the left corner of the rear windshield a non-expired resident/owner permit or a city school district staff and employee parking permit issued by the city. No motor vehicle shall be parked in any such designated municipal areas without such a resident/owner permit or a city school district staff and employee parking permit. Any motor vehicle parked without such permit shall be considered in violation of this schedule.

Side	On Street	From	To
West	S. 2nd Avenue	E. Ingledue Street	Koeper Drive
Both	S. 3rd Avenue	E. Olive Street	Rainbow Drive
Both	Koeper Drive	S. 3rd Avenue	S. 2nd Avenue
Both	Olson Way	E. Olive Street	S. 2nd Avenue
Both	Cherry Street	S. 2nd Avenue	S. Center Street

(2) After 5:00 p.m. to 7:00 a.m., parking in the designated areas is permitted and a permit is not required.

(2013 Code, § 20-163)

(B) *Installation of signs.* The City Engineer shall post suitable signs to designate these areas as resident/owner and city school district staff and employee parking only, in accordance with this schedule. These signs shall comply with state regulations as adopted by the state's Department of Transportation.

(2013 Code, § 20-163.1)

(C) *Issuance of permits.* The City Clerk shall issue resident/owner and city Community School District staff and employee parking permits to those residents or owners of the residential real estate described with the boundaries above and those individuals showing proof as to employment status with the Community School District. Each owner/resident or Community School District staff or employee shall receive one such permit for each motor vehicle registered in the owner's name. No more than 40 permits shall be granted to the Community School District staff and employees under this schedule.

(2013 Code, § 20-163.2)

(Ord. 14917, passed 3-25-2013)

SCHEDULE V. RESIDENTIAL/OWNER PARKING PERMITS.

(A) *Providing for resident/owner parking permits.*

(1) There is created a system of permit parking in the following designated municipal areas:

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Side	On Street	From	To
Both	S. 14th Avenue	E. Linn Street	E. Nevada Street
Both	S. 15th Avenue	South line of E. Linn Street	South line of south line of Lot 37 of Norris Addition (308 S. 15th Avenue)
Both	S. 16th Avenue	E Linn Street	Norris Place
Both	Anson Circle		
Both	E. Boone Street	S. 12th Avenue Place	S. 17th Avenue

(2) No motor vehicle shall be parked in the designated municipal areas set out above unless said motor vehicle has visibly affixed to the left corner of the rear windshield a non-expired resident/owner street permit issued by the city. Visitors and those conducting business in the permit area shall visibly display such permits in the left corner of the front windshield. No motor vehicle shall be parked in such designated municipal areas without a resident/owner street permit. Any vehicle parked without such a permit shall be considered in violation of this schedule.

(2013 Code, § 20-164)

(B) *Posting of signs.*

(1) The City Engineer shall post suitable signs to designate these areas as resident/owner street permit parking only, in accordance with this schedule.

(2) These signs shall comply with state regulations as adopted by the state's Department of Transportation.

(2013 Code, § 20-164.1)

(C) *Revocation of permits.* No holder of a street parking permit shall transfer, sell or assign such permit or otherwise allow use of any such permit contrary to the provisions of this schedule. In the event such inappropriate use occurs, the City Administrator is vested with the authority to revoke and cancel all such permits.

(2013 Code, § 20-164.2)

(D) *Issuance of permits.* The City Clerk is hereby vested with authority to prepare for issuance of the required permits and may, if desired, issue them color coded, numbered and having on their face such information as is required to identify the permit holder, date of expiration, residence and other relevant information.

(2013 Code, § 20-164.3)

(E) *Existing parking regulations.* All permit holders shall abide by all existing parking regulations and are not exempt therefrom.

(2013 Code, § 20-164.4)

(F) *Fine for violation.* Any person violating the provisions of this schedule, in addition to revocation or cancellation of any issued permit, is subject to a fine of \$10.

(2013 Code, § 20-164.5)

(Ord. 14525, passed 2-12-1996; Ord. 14595, passed 7-27-1998; Ord. 14614, passed 1-11-1999; Ord. 14616, passed 2-28-1999; Ord. 14494, passed 2-13-1995; Ord. 14917, passed 3-25-2013)

SCHEDULE VI. RESTRICTED PARKING.

Marshalltown, IA Code of Ordinances

(A) *Restricted parking between the hours of 7:00 a.m. to 5:00 p.m.*

(1) The stopping, parking or leaving standing of motor vehicles on the following designated streets, avenues, roads or drives is hereby prohibited between the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, except holidays:

Side	On Street	From	To
Both	Anson Circle		
Both	Highview Drive		
North	W. Ingledue Street		S. 3rd Street
South	E. Southridge Road	A point 190 feet east of the east line of S. Center Street	A point 388 feet east of the east line of Plaza Drive

(2) The stopping, parking or leaving standing of motor vehicles on the following designated streets, avenues, roads or drives is hereby prohibited between the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, when school is in session:

Side	On Street	From	To
South	Pleasantview Road	S. 4th Street	S. 6th Street

(2013 Code, § 20-165)

(B) *Restricted parking between the hours of 8:00 a.m. to 5:00 p.m.* The stopping, parking or leaving standing of motor vehicles on the following designated streets, avenues, roads or drives is hereby prohibited between the hours of 8:00 a.m. to 5:00 p.m.

Side	On Street	From	To
North	Summit Street	356 feet of the east line of N. 15th Street	230 feet east

(2013 Code, § 20-165.5)

(C) *Restricted parking, except on Sundays.* The stopping, parking or leaving standing of motor vehicles on the following designated streets, avenues, roads or drives is hereby prohibited at all times, except parking shall be permitted on Sundays only:

Side	On Street	From	To
North	W. Church Street	West line of Center Street	West to the east line of the alley intersection

(2013 Code, § 20-166)

(D) *Restricted parking between the hours of 2:30 a.m. and 5:30 a.m.* It shall be unlawful to park or leave standing any automobile, motor driven or operated truck, tractor, tractor trailer, house trailer or other motor vehicle equipment not governmentally owned or operated or controlled at any time on any day between the hours of 2:30 a.m. and 5:30 a.m. on any street, avenue or other place described as follows:

Side	On Street	From	To
Both	1st Avenue	Church Street	State Street

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<i>Side</i>	<i>On Street</i>	<i>From</i>	<i>To</i>
Both	1st Street	Church Street	State Street
Both	2nd Avenue	Church Street	State Street
Both	2nd Street	Church Street	State Street
Both	Center Street	Church Street	State Street
Both	Church Street	2nd Street	3rd Avenue
	All city parking lots		
Both	Main Street	2nd Street	3rd Avenue
Both	State Street	2nd Street	3rd Avenue
	All alleys bounded by Church Street, State Street, 2nd Street, 3rd Avenue		
Both	N. 13th Street	Fremont Street	Summit Street
	Parking Lot B	206 N. 13th Street (Brennecke)	

(2013 Code, § 20-167)

(E) *Exception.* Any individual who has a valid resident permit, for the times and locations set forth above, issued by the City Clerk and who has that resident permit properly displayed in the windshield of his or her vehicle, shall be exempt from application of this schedule.

(2013 Code, § 20-167.1)

(F) *Installation of signs.* Appropriate signs designating the prohibited hours for the parking or the leave standing of the kind and type of vehicles referred to herein shall be erected and maintained by the Street Division in conspicuous places in the areas described and designated in this schedule, which shall be at least two on each block of street curbing, two in each parking lot within the area and one at each alley entrance.

(2013 Code, § 20-167.2)

(Ord. 14182, passed 4-23-1984; Ord. 14490, passed 1-9-1995; Ord. 14513, passed 11-13-1995; Ord. 14608, passed 1-25-1999; Ord. 14686, passed 12-10-2001; Ord. 14874, passed 6-28-2010; Ord. 14917, passed 3-25-2013)

SCHEDULE VII. SNOW REMOVAL; PARKING PROHIBITED.

(A) *Prohibiting parking when snow removal operations are in progress.*

(1) Wherever the word **CUL-DE-SAC** is used in this schedule, it shall be that portion of a street or public way that is circular in its design and is located at the end or terminal point of a street or public way and shall start where the roadway commences its circular character and shall end when the roadway ceases its circular character.

(2) The stopping, parking or leaving standing of motor vehicles when snow removal operations are in progress by the city on the following designated streets, parts of streets or public ways is hereby prohibited on either side of the street:

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Side	On Street	From	To
	All cul-de-sac circles		
Both	S. 16th Street	Church Street	Linn Street
East	S. 4th Avenue	Church Street	Nevada Street
Both	S. 6th Street	Main Street	Madison Street
Both	N. 6th Street	Highland Drive	Jerome Street
Both	N. 8th Street	Summit Street	State Street
Both	E. Boone Street	3rd Avenue	4th Avenue
Both	Highland Drive	5th Street	6th Street
Both	W. Linn Street	16th Street	A point 861 feet east
Both	Melody Lane		
Both	Noble Street	S. 7th Avenue	S. 8th Avenue
Both	Wood Street	S. 7th Avenue	S. 8th Avenue
Both	Young Street		

(2013 Code, § 20-169)

(B) *Towing of vehicles in violation.* Any vehicle found to be parked in violation of the provisions of this schedule may, in addition to the penalty provided, be towed from said location by order of the police at the owner's expense.

(2013 Code, § 20-169.1)

(C) *Installation of signs.* There shall be erected at all the locations set forth above suitable signs setting forth the no parking provision of this schedule.

(2013 Code, § 20-169.2)

(D) *Conflict with overtime alternate parking regulations.* The provisions of any overtime alternate parking sections of this schedule or any ordinance are suspended during the period that snow removal operations are in effect, but shall be of full force after snow removal operations are complete.

(2013 Code, § 20-169.3)

(E) *Penalty for violation.* Anyone violating the provisions of this schedule shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances. In addition thereto, a violation of this schedule shall be a municipal infraction.

(2013 Code, § 20-169.4)

(Ord. 13677, passed 2-25-1980; Ord. 14970, passed 11-27-2017; Ord. 14974, passed 6-11-2018)

SCHEDULE VIII. SNOW ROUTES.

(A) *Snow removal operations.*

(1) The Street Department shall post any street, avenue or area with appropriate signs where snow removal operations are to be carried out and, within three hours thereafter, all motor vehicles parked or left standing therein or thereon shall be

removed therefrom. After such posting of any street, avenue or area for such purpose, no motor vehicle shall be parked or left standing therein.

(2) Parked automobiles that interfere with city snow removal operations may be towed away or otherwise removed to some other place of parking out of the way of snow removal operations.

(2013 Code, § 20-184)

(B) *Snow routes.* Streets or portions of streets shall be designated as snow routes, and there shall be erected suitable signs at the entrance to and along the routes. (2013 Code, § 20-184.1)

(C) *Snow route restrictions.*

(1) (a) 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 if the driving wheels of the vehicle are not equipped with snow tires, tire chains or non-slip differential.

(b) The term **SNOW TIRES**, as used in this schedule, means tires designed for use when there are conditions of snow or ice on the highways, and meeting the requirements that shall be promulgated by rule of the Commissioner of Public Safety.

(2) Standing or parking of vehicles upon a street designated as an emergency snow route shall be prohibited at any time when snow removal operations are in progress and before such operations have resulted in the removal or clearance of snow from such streets.

(2013 Code, § 20-184.2)

(D) *Stalled vehicles on snow emergency routes and non-snow emergency routes.*

(1) Whenever a vehicle becomes stalled or is unable to move under its own power on any part of a snow emergency route while there is a parking prohibition in effect, the person operating that vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of the snow emergency route, either onto the first cross street which is not a snow emergency route or onto the public space portion of a nearby driveway. No person shall abandon or leave his or her vehicle in the roadway of such snow emergency route, except for a reasonable time necessary to receive assistance.

(2) Whenever a vehicle becomes stalled or is unable to move under its own power, for any reason, on a non-snow emergency route, the person operating the vehicle shall take immediate action to have the vehicle towed away or pushed to the side of the street upon which parking is permitted and within 24 hours shall have the vehicle removed from the street or highway.

(2013 Code, § 20-184.3)

(E) *Snow routes designated; signs.* The following streets or portions of streets shall be designated as snow routes and there shall be erected suitable signs at the entrance to and along the routes as are designated:

<i>Street</i>	<i>Location</i>
3rd Avenue	From Anson Street to the north corporate limits
7th Avenue	From Main Street to Church Street

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<i>Street</i>	<i>Location</i>
9th Street	From Lincoln Way to Main Street
18th Avenue	From Marion Street to Highway 30
30th Street	From Main Street to Summit Street
Boone Street	From 9th Street to Center Street
Center Street	From the south corporate limits to Main Church Street
Church Street	From 9th Street to 7th Avenue
East and west ramps	From South 3rd Avenue to East Madison Street
East Anson Street	From South Center Street to South 3rd Avenue
Edgebrook Drive	From Southridge Road to Olive Street
Governor Road and 12th Avenue	From Iowa Avenue East to Main Street
Linn Street	From 3rd Street to South 3rd Avenue
Madison Street	From South 9th Street to South 4th Avenue
Main Street	From Highland Acres Road to 3rd Street and from 3rd Avenue to 18th Avenue
Marion Street	From North 3rd Avenue to North 18th Avenue
Nevada Street	From South 4th Avenue to South 18th Avenue
Olive Street	From 12th Street to 18th Avenue
South 12th Street	From Lincoln Way to Olive Street
South 3rd Street-South 6th Street	From West Linn Street to Iowa Avenue West
Southridge Road	From 6th Street to Governor Road
Summit Street	From Valley View Road to 13th Street
West Lincoln Way	From Highland Acres Road to South 9th Street

(2013 Code, § 20-184.3.5)

(F) *Parking restricted in public lots during snow removal operations.* The following parking lots shall be designated as restricted from parking whenever emergency parking restrictions are instituted on streets and until the parking lots are cleared and there shall be erected suitable signs in the lots designated:

(1) *Restriction between 2:00 a.m. to 7:00 a.m., Monday, Wednesday and Friday.*

The city parking lot immediately east of the Senior Center Building
Parking Lot F
The east 1/3 of city Parking Lot H
City Parking Lot J
The east 1/2 of City Parking Lot K
Parking Lot O

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The designated east portion of City Parking Lot T
City Parking Lot W

(2) *Restriction between 2:00 a.m. to 7:00 a.m., Tuesday and Thursday.*

City Parking Lot A
City Parking Lot D
The west 2/3 of City Parking Lot H
The west 1/2 of City Parking Lot K
City Parking Lot N
City Parking Lot P
The designated west aisles of City Parking Lot T
City Parking Lot Z

(2013 Code, § 20-184.3.6)

(G) *Violation; penalty.*

(1) Any motor vehicle that may be parked contrary to the provisions of this schedule may, in addition to the remedies set forth in division (G)(2) below, be towed away at the owner's expense.

(2) Any person violating the terms of the sections mentioned in division (G)(1) above shall, upon conviction, be fined \$25 if paid within 30 days of the date of the violation. If not paid within 30 days, the fine shall be \$35. Violations shall be charged and collected in the same manner as other parking violations, by notice of a fine payable to the City Clerk.

(2013 Code, § 20-184.4)

(Ord. 9161, passed 1-28-1957; Ord. 13641, passed 11-13-1979; Ord. 14488, passed 5-8-1995; Ord. 14556, passed 1-13-1997; Ord. 14832, passed 5-27-2008; Ord. 14869, passed 3-8-2010; Ord. 14910, passed 8-13-2012; Ord. 14926, passed 10-28-2013)

SCHEDULE IX. DISABLED PARKING.

(A) *Disabled parking areas established.* The City Council may establish parking areas in the city that shall be reserved for parking by disabled persons. The following locations are designated as disabled parking:

Block	On Street	Side	Location
200 W	State Street	South	1st space west of 2nd Street
300 W	Main Street	North	1st and 2nd spaces east of 4th Street
200 W	Main Street	North	1st 2 spaces east of alley
200 W	Main Street	South	1st space east of alley
200 W	Main Street	South	2nd and 3rd spaces east of alley (Sunday only)
100 W	Main Street	North	1st space west of alley

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<i>Block</i>	<i>On Street</i>	<i>Side</i>	<i>Location</i>
10 W	Main Street	South	1st space east of 1st Street
10 W	Main Street	South	1st space east of alley
10 E	Main Street	North	1st space west of 1st Avenue
100 E	Main Street	North	1st space east of alley
100 E	Main Street	South	1st space west of alley
200 E	Main Street	North	1st space west of alley
300 E	Main Street	South	2nd and 3rd spaces east of 3rd Avenue
10 W	Church Street	South	3rd and 4th spaces west of Center Street (Sunday only)
10 W	Church Street	South	5th space east of Center Street
100 W	Church Street	North	2nd space west of 1st Street
100 E	Church Street	North	1st space west of alley
100 E	Church Street	South	1st space west of South 1st Avenue
200 E	Church Street	North	1st space east of alley
200 E	Church Street	South	1st space east of 2nd Avenue
210 W	Church Street	North	1st space east of 3rd Street
10 S	1st Street	West	1st space north of Church Street
10 S	4th Street	East	2 spaces, 135 feet and 170 feet south of the south line of W. Main Street
10 N	Center Street	West	1st space south of W. State Street
100 N	Center Street	West	3rd space south of alley
100 N	Center Street	East	6th space north of alley
10 S	Center Street	West	1st space south of alley
10 N	1st Avenue	West	1st space north of Main Street
10 S	1st Avenue	East	1st space south of alley
100 S	2st Avenue	West	2nd space south of alley
500 S	3rd Avenue	West	1st 1 space north of Madison Street
500 S	3rd Avenue	East	1st 1 space north of Madison Street
10 N	5th Avenue	East	1 space as signed (Sunday only)
300	Columbus Drive	North	From 145 feet west of Huisman Circle to 70 feet west
	Parking Lot A		2 spaces as signed
	Parking Lot D		1 space as signed
	Parking Lot E		1 space as signed
	Parking Lot F		1 space as signed
	Parking Lot H		3 spaces as signed
	Parking Lot J		4 spaces as signed
	Parking Lot K		1 space as signed

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<i>Block</i>	<i>On Street</i>	<i>Side</i>	<i>Location</i>
	Parking Lot L		1 space as signed
	Parking Lot N		1 space as signed
	Parking Lot O		1 space as signed
	Parking Lot P		2 spaces as signed
	Parking Lot W		1 space as signed
	Parking Lot Z		1 space as signed
	Senior citizens lot		4 spaces as signed
	Off street, west of 10 W. State Street		2 spaces as signed

(2013 Code, § 20-185)

(B) *Installation of signs.* The Public Works Director shall post suitable signs to designate these areas as disabled parking areas in accordance with city policy, the Code of Iowa and the *Manual of Traffic Control Devices For Streets and Highways*, as adopted by the state's Department of Transportation and the city.

(2013 Code, § 20-185.1)

(C) *Improper use of disabled parking spaces.* The use of a disabled parking space, located on either public or private property, as provided in I.C.A. §§ 321L.5 and 321L.6 or subsequent amendments thereto, by a motor vehicle displaying a disabled parking permit as aforesaid, but not being used by a person in possession of a motor vehicle license with a disabled designation or a non-operator's identification card with a disabled designation, other than a person issued a permit or being transported in accordance with I.C.A. § 321.2, subsec. 1, para. "b", or subsequent amendments thereto, or by a motor vehicle in violation of the rules adopted by the state's Department of Transportation under I.C.A. § 321L.8 or subsequent amendments thereto, constitutes improper use of a disabled parking permit, which is an offense for which a fine shall be imposed upon the owner, operator or lessee of the motor vehicle or the person to whom the disabled parking permit is issued. The fine for each violation shall be the same as provided by the Code of Iowa.

(2013 Code, § 20-185.2)

(Ord. 12491, passed 6-18-1974; Ord. 14557, passed 2-10-1997; Ord. 14784, passed 6-12-2006; Ord. 14878, passed 8-23-2010; Ord. 14924, passed 7-22-2013; Ord. 14935, passed 8-25-2014; Ord. 14977, passed 8-27-2018)

SCHEDULE X. PUBLIC ACCESS PARKING.

(A) *Areas and spaces designated; manner of parking.*

(1) The Director of Public Works/City Engineer or such city officer or employee as he or she shall select shall place lines or marks on the curb or on the street to designate the area in which a vehicle may be parked, and it shall be unlawful to park any vehicle which extends over, across or which straddles such parking space lines.

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(2) Not more than one vehicle shall be parked in a marked parking space.

(2013 Code, § 20-221)

(B) *Installation of signs; maintenance.* The Street Division, under the supervision of the Director of Public Works/City Engineer, shall install and maintain suitable signs as required under this schedule.

(2013 Code, § 20-222)

(C) *Fined parking; areas specified.* It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in his or her name to be parked, placed or remain in a parking space beyond the time limits provided; each hour that any vehicle remains so parked or placed beyond the following time limits shall constitute a separate violation:

(1) *Thirty-minute parking.*

Street	Location
Center Street	West side, between Main Street and State Street, commencing 70 feet north of the north line of the east/west alley, to a point 43 feet north thereof
Main Street	North side, between 1st Avenue and 2nd Avenue, commencing 70 feet east of the east line of 1st Avenue to a point 24 feet east thereof
Main Street	North side, two spaces located 25 feet to 70 feet easterly of 3rd Avenue and three spaces located 115 feet to 185 feet easterly of 3rd Avenue
Main Street	South side, between 3rd Avenue and 5th Avenue the 1st, 4th, 5th and 6th parking spaces as assigned
Church Street	South side, between Center Street and S. 1st Avenue, from the point 31 feet west of S. 1st Avenue to a point 25 feet west thereof
S. 1st Avenue	West side, between Church Street and Linn Street, commencing 70 feet north of the east/west alley, to a point 27 feet north thereof
W. State Street	South side, the first four parking spaces west of N. Center Street

(2) *Three-hour parking.* Except as shown in division (C)(1) above and disabled parking as provided in Ch. 77, Schd. IX, division (A), of this traffic code:

Street	Location
1st Avenue	From State Street to 280 feet south of Church Street, except as provided in division (C)(1) above
1st Street	From 180 feet south of Grant Street to Church Street
1st Street	From Church Street to a point 180 feet south
2nd Avenue	From the alley south of State Street to the alley south of Church Street
2nd Street	From Church Street to Main Street
30th Street	Both sides, from Fremont Street to Summit Street
Center Street	From 120 feet south of Grant Street to Linn Street, except as

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Street	Location
	provided in division (C)(1) above
Church Street	From 3rd Avenue to 2nd Street
Linn Street	South side, from S. Center Street to S. 3rd Avenue
Main Street	From 3rd Avenue to 3rd Street, and the south side of Main Street between 3rd Avenue and 5th Avenue, except as shown in division (C)(1) above and disabled parking as provided in Ch. 77, Schedule IX, of this code of ordinances
Main Street	South side between 3rd Avenue and 5th Avenue, except for 30-minute parking as provided in division (C)(1) above and disabled parking as provided in Ch. 77, Schedule IX, of this code of ordinances
State Street	From 3rd Avenue to 3rd Street
	Municipal parking lots as follows, except for specific government vehicle spaces: Lot T, 15 W. State Street

(2013 Code, § 20-223)

(D) *When applicable.* The provisions of this schedule relating to parking time limits shall not apply between the hours of 6:00 p.m. through 8:00 a.m. of any day or on Sundays or legal holidays. **LEGAL HOLIDAYS** for the purposes of this schedule are those holidays observed in the city on which City Hall is closed to the public.

(2013 Code, § 20-224)

(Ord. 14216, passed 6-10-1985; Ord. 14407, passed 12-28-1992; Ord. 14505, passed 7-11-1995; Ord. 14601, passed 9-14-1998; Ord. 14623, passed 4-12-1999; Ord. 14739, passed 7-12-2004; Ord. 14742, passed 8-16-2004; Ord. 14750, passed 11-8-2004; Ord. 14784, passed 6-12-2006; Ord. 14878, passed 8-23-2010; Ord. 14879, passed 3-28-2011; Ord. 14910, passed 8-13-2012)

TITLE IX: GENERAL REGULATIONS

Chapter

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- 91. FIRE PREVENTION AND PROTECTION
- 92. HAZARDOUS CONDITIONS AND SUBSTANCES
- 93. PARKS AND RECREATION; LEISURE
- 94. HUMAN RIGHTS; NON-DISCRIMINATION
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CHAPTER 90: ANIMALS

Section

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- 90.002 Poultry or domestic fowl
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GENERAL PROVISIONS

§ 90.001 KEEPING LIVESTOCK.

(A) The keeping, stabling or housing and pasturing or roaming of ruminants, cattle, sheep, goats, horses, mules, asses or swine, except within a lot containing over two acres and not closer than 200 feet from a dwelling is prohibited.

(B) Horses within the city before the publication date of this chapter may be grandfathered; however, the property owner has the burden of proof of continuous land occupation of horses.

(2013 Code, § 6-1) (Ord. 9477, passed 2-24-1958; Ord. 11690, passed 6-23-1970; Ord. 14169, passed 11-14-1983; Ord. 14707, passed 3-10-2003)

§ 90.002 POULTRY OR DOMESTIC FOWL.

(A) For purposes of this chapter, the phrase ***POULTRY OR DOMESTIC FOWL*** shall mean any live chicken or rooster, or any live domesticated, turkey, duck or goose, regardless of the purpose for which any of these birds is owned or possessed. (2013 Code, § 6-1.1)

(B) (1) The keeping or maintaining of poultry or domestic fowl in an area of the city, which is zoned residential is prohibited.

(2) The keeping or maintaining of rabbit enclosures within ten feet from any side lot line or rear lot line or within 50 feet from any street line or residence is prohibited.

(3) In an area of the city, which is not zoned residential, the keeping or maintaining of poultry or domestic fowl enclosures within ten feet of any side lot line or rear lot line or within 50 feet from any street line is prohibited.

(2013 Code, § 6-2)

(Ord. 14748, passed 12-27-2004) Penalty, § 90.999

§ 90.003 RUNNING AT LARGE OR STAKING OUT.

No owner or person having charge of any domestic animal of any kind or poultry or domestic fowl shall permit the domestic animal or poultry or domestic fowl to be staked out on a street or alley or allow the domestic animal or poultry or domestic fowl to run at large in the city. This section does not apply to a dog or cat.

(2013 Code, § 6-3) (Ord. 14748, passed 12-27-2004) Penalty, § 90.999

§ 90.004 FEEDING DEER.

(A) (1) No person shall engage in the artificial feeding of deer within the city limits, except as set forth in division (B) below.

(2) **ARTIFICIAL FEEDING** shall be defined as the placement of shelled corn and/or other types of grain, salt or minerals, fruit or vegetable matter on the ground or in feeders, mangers or any other type of structure or receptacle for the purpose of feeding or attracting deer, on any private or public property.

(2013 Code, § 6-5)

(B) The prohibition set forth in division (A) above shall not apply to any of the following:

(1) Deer management practices approved, authorized and sponsored by the city;

(2) Use of bird feeders or their equivalent for the primary purpose of feeding of birds; and/or

(3) Cultivation of naturally growing grains, fruits or vegetables, for purposes other than the feeding of deer, but which inadvertently attract deer.

(2013 Code, § 6-6)

Penalty, § 90.999

§ 90.005 POLICE DOGS; APPLICABILITY.

Sections 90.020 through 90.036 and 90.050 through 90.056 of this chapter do not apply to police dogs on active status with the city's Police Department.

(2013 Code, § 6-7) (Ord. 14861, passed 9-14-2009)

§ 90.006 FAILURE TO COMPLY WITH ORDER.

Failure to comply with an order of the Animal Warden issued pursuant to this chapter and not timely appealed, or of the City Administrator or Hearing Officer after appeal, constitutes a violation of this chapter.

(2013 Code, § 6-8) (Ord. 14861, passed 9-14-2009)

DOGS AND CATS

§ 90.020 DEFINITIONS.

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

ANIMAL WARDEN. The person employed by the city or with whom the city has contracted as its enforcement officer.

AT LARGE. Off the premises of the owner or upon the public streets, alleys, public grounds, school grounds or parks within the city. A dog shall not be deemed **AT LARGE** under any of the following circumstances:

(1) If attached to a leash or chain of sufficient strength to restrain the dog and not more than six feet in length when the leash or chain is held by a person competent to restrain and control the dog off the owner's premises;

(2) If properly restrained within a motor vehicle or housed in a veterinary hospital;

(3) If accompanied by and at heel beside the owner or a competent responsible person;

(4) If left unattended on the owner's premises, so confined, tied or restrained as to be unable to range beyond the owner's premises;

(5) If the owner and the dog are participating in a regularly scheduled competitive or exhibition event, sanctioned or sponsored by a nationally recognized organization, local chapter thereof or other generally recognized local organization, in a park designed by the city's Park and Recreation Department for such activities and under the terms and conditions established by the Park and Recreation Department;

(6) If the dog and the owner are actively engaged in a generally recognized and dog obedience training program or training for a generally recognized kennel club event, in a park designed for such activities by the city's Park and Recreation Department and under the terms and conditions established by the Park and Recreation Department; provided, all of the following conditions are met:

(a) The dog is in the actual physical presence of the owner or trainer at all times;

(b) The owner or trainer is at no time more than 50 feet from the dog;

(c) The dog is immediately obedient to the commands of the owner or trainer;

(d) The owner or trainer has, at all times, on his or her person a leash of sufficient strength to restrain the dog; and

(e) However, in the Nicholson-Ford Nature Area, the exceptions above shall only be applicable to dogs that are "retriever breeds" as determined and defined by the city Park and Recreation Department. Such breeds in the Nicholson-Ford Nature Area may be more than 50 feet from the trainer if wearing an operable electronic collar.

(7) If a dog and owner are confined within an area specifically designed and set apart as an off-leash dog park and the owner has registered and

followed the policies set for such an area, a dog shall be deemed to be **AT LARGE** if it is not properly vaccinated for rabies as required by law, if it is not housed, restrained or controlled in one of the methods set forth in this section or if under division (6)(e) above, its presence or activities are not in conformance with the terms and conditions established by the Parks and Recreation Department of the city.

CAT. Both male and female of the feline species.

DOG. Both male and female animals of the canine species.

KENNEL DOG. A dog kept or raised solely for the bona fide purpose of sale and which is kept under constant restraint.

OWNER. Any person, group of persons, firm, association or corporation owning, keeping or harboring an animal.

VETERINARY HOSPITAL. A public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injuries of animals.

(2013 Code, § 6-18) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14232, passed 5-27-1986; Ord. 14707, passed 3-10-2003; Ord. 14872, passed 4-26-2010)

§ 90.021 RABIES VACCINATION REQUIRED.

It shall be unlawful for any person to own or have a dog or cat in his or her possession, in the city, a cat or dog six months of age or over, which cat or dog has not been vaccinated against rabies. Persons owning or possessing a dog or cat over the age of six months of age shall be required to have a certificate of vaccination for such dog or cat signed by a licensed veterinarian indicating that the vaccination is current. Any dog or cat not having a valid rabies vaccination tag and for which no rabies vaccination certificate can be produced shall be apprehended pursuant to I.C.A. Ch. 351.

(2013 Code, § 6-19) (Ord. 12463, passed 5-1-1974; Ord. 13987, passed 5-11-1981; Ord. 14232, passed 5-27-1998; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.022 DOG WASTE; REMOVAL.

No owner, possessor or person in charge of a dog shall fail to clean up or remove immediately any excrement or droppings deposited by such dog on any public or private property not owned or in the control of that owner, possessor or person in charge of such dog.

(2013 Code, § 6-20) (Ord. 14605, passed 12-30-1998; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.023 CATS AT LARGE.

The city or its contracting agent, if the city has entered into a contract as provided in this subchapter, shall pick up and shelter any cat confined in a humane manner by any person when the cat was not on its owner's property. Pick-up shall be within 24 hours whenever possible.

(2013 Code, § 6-21) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14232, passed 5-27-1986; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.024 DOGS AT LARGE.

(A) A dog found at large shall be sterilized, spayed or neutered, at the owner's expense, if and upon the owner or keeper of the dog being found guilty of a second or subsequent dog at large violation under this chapter.

(B) In determining what is a second, third or subsequent offense, multiple counts or charges for more than one dog at large by the owner or keeper resulting from the same event or release shall be considered one offense.

(C) There is no time limitation from the prior offense in determining whether an offense under this section is a second, third or subsequent offense.

(D) A dog found at large shall be forfeited, if and upon the owner or keeper being found guilty of a third or subsequent offense of a dog at large violation under this chapter.

(2013 Code, § 6-22) (Ord. 14709, passed 3-25-2003; Ord. 14861, passed 9-14-2009; Ord. 14970, passed 11-27-2017) Penalty, § 90.999

§ 90.025 CITY AUTHORIZED TO CONTRACT FOR CARE, DISPOSITION OF DOMESTICATED ANIMALS IN LIEU OF ESTABLISHING POUND.

(A) In lieu of the establishment and maintenance of a pound and the employment of an Animal Warden employed by the city, the City Council may contract with any incorporated society or association for the prevention of cruelty to animals for the maintenance of a shelter or pound for untagged domesticated animals and for lost, strayed or homeless domesticated animals; for the destruction or disposition of seized domesticated animals not redeemed as provided by this subchapter; and for the disposal of dead dogs or cats.

(B) Such contract shall set forth the manner in which the work shall be done and in which payments are to be made to the society and may also direct the disposition of all domesticated animals seized as provided in the agency's bylaws.

(C) Such contract may provide that proceeds of the animal-related fees thereon may be retained by the society in payment for its services and such other payments may be made to such society by the city as may be necessary to defray the actual cost incurred by the society in connection with its work under such contract by accounting to the city and credit on the amount appropriated by the Council.

(D) The Animal Warden has the authority to write municipal infractions under this subchapter.

(2013 Code, § 6-23) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.026 APPREHENDING AND IMPOUNDING.

No domesticated animal picked up pursuant to this subchapter shall be released to the owner thereof until payment of a pick-up charge, plus boarding charges. In addition, the owner shall show proof of a current rabies vaccination. Additional conditions for release provided in this chapter shall be applicable if the animal is a dangerous or vicious animal.

(2013 Code, § 6-24) (Ord. 9073, passed 6-25-1956; Ord. 11059, passed 5-9-1967; Ord. 12017, passed 4-11-1972; Ord. 13987, passed 5-11-1981; Ord. 14232, passed 5-27-1986; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.027 POLICE OFFICER; DUTIES.

Police officers or such other person as may be approved by the Council shall report to the Animal Warden any domesticated animal found to be running at large contrary to the provisions of this subchapter and shall give such assistance as may be required in the impounding of any such domesticated animal.

(2013 Code, § 6-25) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003)

§ 90.028 NOTICE TO OWNER; REDEMPTION.

Not later than two days after the impounding of any domesticated animal, the owners, if known, shall be notified either personally or by certified mail of such impoundment. The registry of impounded animals shall be available for inspection during reasonable hours by the owners. The owner of any animals impounded may reclaim such animals by payment of all costs and charges incurred by the city or the agency authorized by the City Council to impound animals, including the maintenance of said animals.

(2013 Code, § 6-26) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003)

§ 90.029 UNCLAIMED OR INFECTED ANIMALS; DISPOSITION.

(A) It shall be the duty of the agency authorized by the City Council to impound any animals, to keep all such animals, except cats, so impounded for a period of seven days after the owner has been notified as provided in § 90.028 of this chapter. It shall be the duty of the agency authorized by the City Council to impound cats, to

keep all cats so impounded for a period of three days after the owner has been notified as provided in § 90.028 of this chapter.

(B) If, after the seven days, or the three days for cats, following notice to the owner of the impounding of the owner's animal, or cat, respectively, or if the owner is unknown, then after the seven days, or the three days respectively, after the impoundment of such animal the owner thereof has failed to claim and redeem any such impounded animal or cat, which, as provided in this subchapter, the animal or cat shall become the property of the city or its authorized agency and may be humanely destroyed or placed.

(C) Any animal or cat which appears to be suffering from rabies when impounded shall be confined in the pound or a veterinary hospital for a period of not less than ten days, and the animal or cat, or its carcass if it dies, shall be subject to such reasonable medical or pathological tests as the Animal Warden shall recommend.

(D) Rabies tests, if any, shall be conducted at the expense of the owner. If an animal or cat is determined to be infected with rabies, it shall be destroyed or disposed of as directed by the Animal Warden.

(2013 Code, § 6-27) (Ord. 9073, passed 6-25-1956; Ord. 11059, passed 5-9-1967; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003; Ord. 14757, passed 1-24-2005)

§ 90.030 CONFINEMENT OF DOMESTICATED ANIMALS; RELEASING.

(A) (1) Every female domesticated animal in heat shall be kept confined to the owner's property or in a veterinary hospital or boarding kennel so that such domesticated animal cannot come in contact with other animals, except for intentional breeding purposes.

(2) Domesticated animals kept outdoors for more than four hours at one time must be provided with a moisture-proof and wind-proof shelter and shade of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable.

(B) (1) No person, except the owner of a domesticated animal or such owner's authorized agent, shall willfully open any door or gate on any private premises or unleash any domesticated animals for the purpose of enticing or enabling any domesticated animal to leave such private premises and be at large under this subchapter.

(2) No person shall provoke or mistreat any animal while confined on its owner's premises.

(2013 Code, § 6-29) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 12390, passed 1-15-1974; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.031 RABIES CONTROL.

(A) Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the Mayor, if the Mayor deems it necessary, shall issue a

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proclamation ordering every owner of an animal to confine the animal securely on the owner's premises at all times, for such period as deemed necessary.

(2013 Code, § 6-30)

(B) (1) It shall be the duty of every physician or other practitioner in the city to make written report to the Police Department of the name and address of any person treated for a bite inflicted by an animal, together with such other information as will assist in the prevention of rabies.

(2) It shall be the duty of every veterinarian in the city to report to the Animal Warden any diagnosis of rabies in an animal made by him or her or under his or her supervision.

(3) It shall be the duty of the owner of any animal or any person having knowledge of such animal biting or causing a skin abrasion upon any person in the city to promptly report such fact to the Animal Warden.

(2013 Code, § 6-31)

(C) (1) The Animal Warden shall impound animals in the city suspected of being infected with rabies or other disease communicable to humans or any animal that has bitten or caused a skin abrasion upon any person in the city and cause such animals to be placed in isolation and under quarantine for observation for a minimum period of ten days. The isolation and quarantine shall be either at the pound or humane shelter authorized by the city or in a veterinary hospital. However, if such animal has an effective vaccination against rabies given not less than 30 days and not having expired prior to the date of bite or skin abrasion, and the animal was not at large at the time of bite, it may be placed in the custody of the owner on the owner's premises during the isolation and quarantine period. When isolation and quarantine is authorized on the owner's premises, it will be at the discretion of and under the supervision of the Animal Warden.

(2) The expense of isolation and quarantine will be borne by the owner. If the animal is placed in isolation and under quarantine in the pound or humane shelter authorized by the city, an additional charge shall be assessed.

(2013 Code, § 6-32)

(D) Every owner or person having possession, custody or control of any animal which is known to be rabid or which has been bitten by an animal infected with rabies shall immediately report such fact to the Police Department or Animal Warden and shall have such animal placed in isolation and quarantine as directed by the Animal Warden for such period as designated at the owner's expense.

(2013 Code, § 6-33)

(E) The owner of any animal shall forthwith surrender any animal which has bitten a human or any animal which is suspected as having been exposed to rabies for supervised quarantine at the owner's expense as provided in division (C) above, upon demand of the Animal Warden, police officer or City Attorney's office. No person shall kill any animal suspected of being rabid or remove the animal from the city without permission of the Animal Warden.

(2013 Code, § 6-34)

(Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003)

§ 90.032 INTERFERENCE WITH ENFORCEMENT OFFICER.

No person shall willfully interfere with, molest or injure an agent of the city authorized to enforce the provisions of this subchapter or seek to release any domesticated animal properly in the custody of such authorized agent.
(2013 Code, § 6-35) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003) Penalty, § 90.999

§ 90.033 OWNER'S LIABILITY FOR DAMAGE.

Nothing contained in this subchapter shall relieve the owner of any domesticated animal from liability for any damage committed by such dog as provided by state law.
(2013 Code, § 6-36) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003)

§ 90.034 DOMESTICATED ANIMAL CAUSING DISTURBANCE OR ANNOYANCE.

It shall be unlawful for any person owning or harboring a domesticated animal to allow or permit such domesticated animal to cause serious or habitual disturbance or annoyance to any person by frequent or habitual howling, yelping, barking or otherwise noise some conduct.
(2013 Code, § 6-37) (Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003; Ord. 14709, passed 3-25-2003; Ord. 14970, passed 11-27-2017) Penalty, see § 90.999

§ 90.035 KENNELS AND BREEDING DOGS.

Dog kennels and the breeding or raising of dogs is prohibited; except that, not more than three dogs over six months may be kept per residence.
(2013 Code, § 6-38) (Ord. 9477, passed 2-24-1958; Ord. 14707, passed 3-10-2003) Penalty, see § 90.999

§ 90.036 DOGS AT PUBLIC EVENTS.

Dogs, other than police dogs as provided in § 90.005 of this chapter, and service and assistance dogs, are prohibited from the immediate vicinity of certain public events in the city. The list of applicable events shall be set out by City Council resolution, which shall be effective until repealed or modified. The City Administrator is authorized to establish rules implementing this chapter, including, but not limited to, the criteria for a service and assistance dogs, the distances allowed from the event, and the exceptions for possible participation of dogs that have an official function for the event.
(2013 Code, § 6-39) (Ord. 14861, passed 9-14-2009)

VICIOUS ANIMALS

§ 90.050 DEFINITIONS.

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

ANIMAL WARDEN. The Director of the Animal Rescue League or the Director's designee.

VICIOUS ANIMAL. Any of the following:

(1) Any animal, including, but not limited to, dogs, with a known propensity, tendency or disposition to attack unprovoked, as evidenced by its habitual or repeated chasing, snapping or biting at human beings or domestic animals so as to potentially cause injury or otherwise endanger their safety. The Chief of Police, a qualified veterinarian duly licensed in the state or the Animal Warden are authorized to declare an animal **VICIOUS** for purposes of this chapter. A police officer or the Animal Warden may determine an animal to be **VICIOUS** for purposes of capture or confinement under § 90.056(A) of this chapter; and/or

(2) Any dog, which, without provocation, bites a human being or domestic animal.

(2013 Code, § 6-51) (Ord. 14261, passed 8-10-1987; Ord. 14707, passed 3-10-2003; Ord. 14801, passed 3-12-2007)

§ 90.051 UNPROVOKED DOG BITING.

(A) The owner of a dog, whose dog without provocation bites a human being or domestic animal, shall surrender that dog to the Animal Rescue League within 24 hours or one business day of such bite. Such dog shall be declared or deemed a vicious animal for purposes of this chapter, and will be released upon meeting the respective requirements of § 90.052 of this chapter, and upon paying the charges incurred and fees established by the Animal Rescue League, unless the circumstances are such as described in divisions (D) or (E) below.

(B) The owner of a dog, whose dog is classified as a vicious animal under division (A) above or as a repeat biter under division (D) below, or as causing serious injury or death to a human being or domestic animal under division (E) below, or held by the Animal Rescue League under this section, may appeal the vicious animal status, number of bite status or the seriousness of the injury to the human being or domestic animal, to the City Administrator, within three business days of the dog's surrender to the Animal Rescue League. The appeal will be heard by the City Administrator or by a Hearing Officer appointed by the City Administrator.

(C) Such notice of appeal:

(1) Shall be in writing and served on the City Clerk or the City Clerk's designee. Failure to file such timely written notice of appeal shall constitute a waiver of right to appeal; and

(2) Shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. Within seven days of receipt by the City Clerk, a date of hearing for such appeal will be set. After such hearing, the City Administrator or the Hearing Officer, if so appointed, may affirm or reverse the decision as to the vicious animal status, the number of bites status or the seriousness of the injury to the human being or domestic animal. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing or any continued session thereof. The decision and order shall be served upon the person who appealed.

(D) The owner of a dog, whose dog is previously declared or deemed a vicious animal under this subchapter, and whose dog without provocation bites a human being or domestic animal, shall surrender that dog to the Animal Rescue League within 24 hours or one business day of such bite. Such dog shall be euthanized, and the owner shall be responsible for the charges incurred and fees established by the Animal Rescue League.

(E) The owner of a dog, whose dog bites a human being or domestic animal, causing serious injury or death to that human being or domestic animal, shall surrender that dog to the Animal Rescue League within 24 hours or one business day of such bite. Such dog shall be euthanized, and the owner shall be responsible for the charges incurred and fees established by the Animal Rescue League.

(F) Fees under this section shall be paid to the Animal Rescue League for services rendered, regardless of the success or failure of any such appeal pursuant to this section.

(2013 Code, § 6-51.1) (Ord. 14801, passed 3-12-2007; Ord. 14861, passed 9-14-2009)

§ 90.052 PROTOCOL FOR DOGS SUBJECT TO VICIOUS ANIMAL PROCEDURES.

Procedures or protocol shall be adopted by the Animal Rescue League in the holding, processing, release and euthanization, and by the City Administrator for appeals, for dogs at large, dogs suspected or deemed to be vicious animals, and for dogs suspected or deemed to have caused serious injury or death, including, but not limited to, the following.

(A) A dog required to be licensed as a vicious animal under this subchapter shall be microchipped and sterilized, spayed or neutered. All dogs, which are microchipped or sterilized, spayed or neutered, or both, through the Animal Rescue League, will be charged a fee to be determined by the Animal Rescue League for such procedure.

(B) A dog found at large owned or kept by someone with two or more dog at large violations shall be sterilized, spayed or neutered at the owner's expense. All such dogs sterilized, spayed or neutered through the Animal Rescue League, will be charged a fee to be determined by the Animal Rescue League.

(C) Dogs captured or surrendered to the Animal Rescue League under the provisions of this chapter, will not be released by the Animal Rescue League, until all applicable requirements including, but not limited to, proof of insurance, microchipping,

sterilization, spaying or neutering, licensing and payment of fees are met. Owners of dogs sent to the Animal Rescue League pursuant to this subchapter, have five days from the date of surrender of the dog or from notification that the Animal Rescue League holds the dog, to pick up the dog and pay all applicable fees. This time may be extended by the Animal Rescue League pending the time needed to hold an appeal hearing.

(D) It shall be a violation of this chapter for an owner to refuse to surrender a dog requested or required to be surrendered to the Animal Rescue League pursuant to this chapter.

(2013 Code, § 6-51.2) (Ord. 14801, passed 3-12-2007; Ord. 14861, passed 9-14-2009)

§ 90.053 LICENSE AND INSURANCE REQUIRED.

All vicious animals must be licensed as follows.

(A) Application for a license must be made at the office of the City Clerk upon a form to be provided by the Clerk.

(B) The application must be accompanied by an insurance policy or a certificate of insurance issued by a company licensed to do business in the state, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of \$100,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents in the negligent keeping of such vicious animal.

(C) The insurance policy or certificate of insurance referred to in this section shall provide that it cannot be cancelled or terminated until ten days' notice by registered mail of such cancellation or termination shall have been received by the City Clerk or the Clerk's designee.

(D) The cancellation or other termination of any insurance policy, issued in compliance with this section, shall automatically revoke and terminate the license issued under this section, unless another policy, complying with this section, shall be provided and in effect at the time of such cancellation or termination. The City Clerk or the Clerk's designee shall immediately issue written notification of the revocation of such certificate and all licenses issued under this section.

(E) The license provided for in this section shall be valid for one year and must be renewed annually. The cost of issuance shall be as set by resolution of the City Council.

(2013 Code, § 6-52) (Ord. 14261, passed 8-10-1987; Ord. 14707, passed 3-10-2003)

§ 90.054 CONFINEMENT OF FIERCE, DANGEROUS OR VICIOUS ANIMALS.

(A) (1) No animal known to be vicious, as the term is defined in § 90.050 of this chapter, shall be permitted off the premises of the owner, except when such animal is confined in a boarding kennel, a veterinary hospital or while being transported to such boarding kennel or veterinary hospital.

(2) If any such animal is not confined as required by this section, it shall be impounded and shall not be released without meeting the applicable procedures or protocol established by the Animal Rescue League pursuant to § 90.052 of this chapter.

(B) Notwithstanding division (A) above, any animal may be taken up and impounded when the animal has attacked any person or domestic animal and inflicted such serious and grievous injury to the person or domestic animal as to cause the Animal Warden, in his or her sole discretion, to believe the animal is vicious, and the animal shall not be released until the Animal Warden shall authorize release upon any terms and conditions under procedures and protocol established pursuant to § 90.052 of this chapter.

(2013 Code, § 6-53) (Ord. 9073, passed 6-25-1956; Ord. 12017, passed 4-11-1972; Ord. 12390, passed 1-15-1974; Ord. 14707, passed 3-10-2003; Ord. 14801, passed 3-12-2007; Ord. 14861, passed 9-14-2009) Penalty, see § 90.999

§ 90.055 RESTRAINT.

(A) Persons owning, possessing or harboring or having the care of a vicious animal shall not allow or permit such animal to go unconfined upon the premises of such person. Persons shall not permit such animal to go beyond the premises unless properly caged, tied or restrained so as to securely confine and control such animal and, in the case of a vicious dog, securely leashed and muzzled.

(B) If a vicious animal is housed in a kennel on a property, the kennel must have a cement base, a secure covered top and a secure closed door.

(2013 Code, § 6-54) (Ord. 14261, passed 8-10-1987; Ord. 14707, passed 3-10-2003; Ord. 14801, passed 3-12-2007) Penalty, see § 90.999

§ 90.056 SEIZURE, IMPOUNDMENT AND DISPOSITION; FAILURE TO COMPLY.

(A) (1) In the event that a vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the sole discretion of the Animal Warden, be destroyed if it cannot be safely captured or confined. The city shall be under no duty to attempt the confinement or capture of a vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction. Upon the complaint of any individual that a person is keeping, sheltering or harboring a vicious animal on premises in the city, the Animal Warden, accompanied by the police officer if necessary and available, or a police officer, shall cause the matter to be investigated. If, after such investigation as the Chief of Police or the Animal Warden deem necessary, on their own initiative or as a result of a complaint hereunder, it is determined that a person is keeping, sheltering or harboring a vicious animal in the city which has not been licensed as a vicious animal under this chapter, or which has been found to be at large after being deemed vicious, the Police Chief, or his or her designee, or the Animal Warden, shall order the person keeping,

sheltering or harboring the vicious animal within three days of service of the order to either safely and permanently place the animal with an organization or group determined by the Animal Warden to be safe to keep vicious animals or destroy the animal. The order herein shall be contained in a written notice directed to the person or persons keeping, sheltering or harboring the vicious animal and shall be served in the manner of personal service under the Iowa Rules of Civil Procedure, or by both regular and certified mail and shall be effective upon placement of the notice in a United States Post Office receptacle. The notice shall also advise the persons to whom it is directed of their right to appeal the order by delivering to the City Clerk within three days of the personal service or five days of the mailing by regular and certified mail, a written notice of appeal which provides the names and addresses of the owners of the vicious animal, names the vicious animal and states the grounds upon which the appeal is based. Within seven days of receiving a notice of appeal hereunder, the City Clerk shall send by regular mail to the appellant(s) at the address provided in the notice of appeal, a written notice of the time, date and place for the hearing, the name of the Hearing Officer appointed by the City Administrator to conduct the appeal and the rights of the appellants to present evidence, to be represented by an attorney at their own expense, to conduct cross-examination of the witnesses presented by the city and to preserve a transcript of the proceedings on appeal at their own expense. The decision on appeal shall be issued in writing within seven days of the appeal hearing by regular mail to the address provided in the notice of appeal.

(2) Any person who has received a notice under this section who removes or transfers possession of the vicious animal, except in strict compliance with the orders of the Police Chief, Animal Warden or Appeals Hearing Officer, shall be subject to a civil penalty as a municipal infraction.

(2013 Code, § 6-55)

(B) Failure to comply with an order of the Animal Warden or police officer, issued pursuant to this chapter and not appealed, or an order of the City Administrator or Hearing Officer on appeal, pursuant to this chapter, constitutes a violation of this chapter.

(2013 Code, § 6-51)

(Ord. 14707, passed 3-10-2003; Ord. 14801, passed 3-12-2007; Ord. 14919, passed 5-13-2013)

DANGEROUS ANIMALS

§ 90.070 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL.

(1) Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or

causing disease among human beings or domestic animals and having known tendencies as a species to do so; and

(2) Any animal declared to be **DANGEROUS** by the County Board of Health or Council or its designee; and the following animals, which are deemed to be dangerous animals per se:

- (a) Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- (b) Wolves, coyotes and foxes;
- (c) Badgers, wolverines, weasels, skunks, minks and groundhogs;
- (d) Raccoons, deer and snapping turtles;
- (e) Bears;
- (f) Monkeys and chimpanzees;
- (g) Alligators and crocodiles;
- (h) Snakes that are venomous or constrictors; and
- (i) Gila monsters.

(2013 Code, § 6-61)

§ 90.071 KEEPING DANGEROUS ANIMALS PROHIBITED.

(A) No person shall keep, shelter or harbor any dangerous animal as a pet or act as temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any capacity within the city, except in the following circumstances:

(1) The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show;

(2) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment; or

(3) Any dangerous animals under the jurisdiction of and in the possession of the state's Department of Natural Resources, pursuant to I.C.A. Ch. 481A and 481B.

(B) The Animal Warden will respond to complaints of dangerous animals and remove them. In the event the Animal Warden is not reasonably available and an imminent danger exists, the Police Department shall be authorized to destroy the dangerous animal.

(2013 Code, § 6-62) Penalty, see § 90.999

§ 90.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) (1) In addition to the penalties, remedies and relief as provided in this municipal code of ordinances, a violation of § 90.024 of this chapter shall be a municipal infraction punishable and a third or subsequent violation of § 90.024 of this chapter shall require forfeiture of the dog found at large.

(2) Notwithstanding § 90.999(B) of this code of ordinances, concerning repeat offenses, there is no time limitation from the prior offense in determining whether an offense under § 90.024 of this chapter is a second, third or a subsequent offense after three.

(2013 Code, § 6-22)

(Ord. 12017, passed 4-11-1972; Ord. 14707, passed 3-10-2003; Ord. 14709, passed 3-25-2003; Ord. 14861, passed 9-14-2009; Ord. 14970, passed 11-27-2017)

CHAPTER 91: FIRE PREVENTION AND PROTECTION

Section

Fire Code

- 91.001 Adoption of Fire Prevention Code
- 91.002 Amendments, definitions, substitutions or deletions
- 91.003 Enforcing officer
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Open Burning

- 91.020 Definitions
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- 91.040 Unlawful to keep or store gasoline or inflammable liquids without permit
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FIRE CODE

§ 91.001 ADOPTION OF FIRE PREVENTION CODE.

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Unless specifically provided for in other codes or city ordinances, the International Fire Code, 2015 Edition (hereinafter to be known as the IFC), including Appendices B, C, D, E, F, G, H, I, J, K, L and M as published by the International Code Council, Inc. in cooperation with the International Conference of Building Officials of Whittier, California, and except as modified as to portions thereof as are deleted, substituted, redefined or inserted in this subchapter, is adopted by reference, is on file with the City Clerk and is fully incorporated as the Fire Prevention Code of the city. The provisions of said Fire Code shall be controlling for the safeguarding of life and property from the hazardous substances, materials and devices, and from conditions hazardous to life or property in the use of occupancy of buildings or premises and in all matters covered by said Fire Code within the corporate limits of the city and shall be known as the "Marshalltown Fire Code".

(2013 Code, § 12-1) (Ord. 12611, passed 12-5-1974; Ord. 13944, passed 3-23-1981; Ord. 14184, passed 7-9-1984; Ord. 14231, passed 5-27-1986; Ord. 14373, passed 3-23-1993; Ord. 14543, passed 6-10-1996; Ord. 14805, passed 4-9-2007; Ord. 14985, passed 7-22-2019)

§ 91.002 AMENDMENTS, DEFINITIONS, SUBSTITUTIONS OR DELETIONS.

The Fire Prevention Code adopted in § 91.001 of this chapter is amended in the following respects.

- (A) Section 101.1 Title is amended to read as follows:
These regulations shall be known as the Fire Code of Marshalltown, hereinafter referred to as "this code". Any reference to a Section number shall mean to this code unless stated otherwise.
- (B) Section 105.1.1 Permits required is amended to read as follows:
A property owner or owner's authorized agent who intends to conduct an operation or business, or install or modify systems and equipment that are regulated by this code, or cause any such work to be performed, shall first make application to the fire code official and obtain the required permits. The minimum permit fee shall be established by Resolution of the City Council without amending this ordinance.
- (C) Section 109.4 Violation penalty is amended to read as follows:
Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a municipal infraction, punishable as outlined in Section 10.999(c), Code Of Ordinances for the City of Marshalltown. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (D) Section 307.1 Open burning - General is amended to read as follows:
A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Sections 307.1.1 through 307.5 and Section 91.020 of the Marshalltown City Code.
- (E) Section 308.1.4 Open-flame cooking device is amended to read as follows:
Charcoal burners, other open-flame cooking devices, and other devices that produce ashes or embers shall not be operated on balconies or within 20 feet (3048 mm) of combustible construction. Location of LP containers shall comply with Section 6104.
Exceptions:

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1. One and two-family dwellings, constructed in accordance with the International Building Code.
2. LP-gas cooking devices having LP-gas container with a water capacity not greater than 20 pounds.

(F) **Section 315.3.3 Equipment room is amended as follows:**

Combustible material shall not be stored in boiler rooms, mechanical rooms, and electrical rooms or in fire command centers as specified in Section 508.1.5.

Exception:

1. In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical, or electrical equipment in the room.

(G) **Table 405.2 Fire and Evacuation Drill Frequency and Participation is amended as follows:**

<i>GROUP OR OCCUPANCY</i>	<i>FREQUENCY</i>	<i>PARTICIPATION</i>
Group A	Quarterly	Employees
Group B(c)	Annually	Employees
Group E	See (a) below	All occupants
Group I	Quarterly on each shift	Employees
Group I-1(b) and Group R-4	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2(d)	Four annual	All occupants
High-rise	Annually	Employees

a. Quarterly (4 fire and four tornado) in accordance with Iowa Code Chapter 100. In severe climates, the fire code official shall have the authority to modify the emergency evacuation drill frequency.

b. Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 403.10.3.6. Drills shall be conducted not less than six times per year on a bi-monthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training.

c. Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of discharge.

d. Applicable to Group R-2 college and university buildings in accordance with Section 403.10.2.

(H) **Section 503.2.1 Dimensions is amended as follows:**

Fire apparatus roads shall have an unobstructed width of not less than 20 feet (6096 mm) exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4268 mm).

(I) **Section 505.1 Address identification is amended as follows:**

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the fire code official, address numbers shall be provided in greater dimension or additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and stroke width as delineated by Table 505.1. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign shall be used to identify the structure. Address number shall be maintained.

(J) **Table 505.1 Minimum height and stroke width is added as follows:**

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Table 505.1 Minimum Height and Stroke Width (a, b)

<i>Distance from the centerline of the public way (feet)</i>	<i>Minimum Height (inches)</i>	<i>Minimum Stroke Width (inches)</i>
Less than 100'	4"	1/2"
100 - 199	6"	3/4"
200 - 299	8"	1"

Each additional 100' Add 2" Add 1/2"

a. Exterior suite identification, minimum height shall be 4 inches and stroke width shall be 1/2 inch.

b. Interior suite identification, minimum height shall be 2 inches and stroke width shall be 1/2 inch.

(K) Section 507.5.1 Hydrant for fire department connections is amended as follows:

Buildings equipped with a fire department connection installed in accordance with Section 912 shall have a fire hydrant located on a fire access road within 100 feet (30 m) of the fire department connection as measured by an approved route around the exterior of the building.

Exception:

The distance shall be permitted to exceed 100 feet (30 m) where approved by the fire code official.

(L) Section 511 Fire and emergency vehicle lane is added.

(M) Section 511.1 General is added as follows:

Fire and emergency vehicle lanes shall be provided and maintained in accordance with Section 511.1 through 511.6 and referred to as fire lanes in this ordinance.

(N) Section 511.2 Purpose is added as follows:

The requirement that Fire Lanes be established in certain areas and the enforcement of restrictions on parking in such Fire Lanes established in this Chapter are designed to ensure adequate access to commercial, office, multi-family, and other high density facilities by fire-fighting and other emergency vehicles.

(O) Section 511.3 Designation is added as follows:

The Fire Code Official may designate fire lanes on public and private property as deemed necessary for the protection of life and property.

(P) Section 511.4 Obstruction is added as follows:

No person shall park or place a vehicle or other obstruction in a designated fire lane that would prevent such fire lane from being immediately accessible to emergency vehicles, or deter or hinder emergency vehicles from gaining immediate access to the fire lane. A written request for a temporary obstruction of a fire lane shall be submitted to the fire code official for approval.

(Q) Section 511.5 Signs and markings is added as follows:

Whenever a fire lane has been designated, the fire code official shall cause appropriate signs and markings to be placed identifying such fire lanes. Signs and markings shall be maintained in a clean and legible condition at all times and shall be replaced or repaired to provide adequate visibility. Fire lanes may be established or relocated at the time of plan review, site inspection, and/or during post construction site inspection, as well as any time during the life of the occupancy. All designated fire lanes shall be clearly marked in the following manner:

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1. Vertical curbs shall be painted red on the top and side, extending the length of the designated fire lane. Rolled curbs or surfaces without curbs shall have a red (6) inch wide stripe painted the length of the designated fire lane. One of the following lettering methods shall be utilized:

a. The words "NO PARKING - FIRE LANE" shall be stenciled with three (3) inch white letters and a minimum three-quarter (3/4) inch stroke on the face of the curbing, or in the absence of vertical curbing, on the painted red stripe. Spacing shall be at fifty (50) foot intervals or portions thereof.

2. Signage identifying fire lanes shall conform with the following:

a. Eighteen (18) inches tall and twelve (12) inches wide with red letters on a white reflective background.

b. Verbiage to read "Fire Lane - No Parking".

c. Signs shall be placed two (2) to four (4) feet from the edge of the fire lane with the bottom of the sign no less than five (5) feet from the ground and spaced every one-hundred (100) feet.

d. Sign may be placed on a building when approved by the fire code official.

(R) follows: Section 604.8 Shutdown of emergency and standby power is added as follows:

In addition to the requirements of NFPA 110 for a remote manual stop, a switch of an approved type shall be provided to shut down the generator. The switch shall be provided at a location approved by the fire code official.

(S) Section 604.9 Emergency generator sign is added as follows:

Main electrical disconnects and main breaker panels supplied by the generator shall be provided with approved signs. Additionally, doors accessing emergency and standby power systems shall be provided with approved signs. Approved signs shall contain the word "CAUTION" in black letters at least two (2) inches high on a yellow background. Signs shall be placed so as to be readily discernible.

(T) Section 609.1 General is amended as follows:

Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition.

(U) Section 703.2.3 Door operation is amended as follows:

Swinging fire doors shall close from the full open position and latch automatically. The door closer shall:

1. Exert enough force to close and latch the door from any partially open position.

2. Be Underwriters Laboratory (UL) listed and of hydraulic type, spring type shall not be allowed.

(V) Section 807.5.2.1 Storage in corridors and lobbies is amended as follows:

Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 907.3.3.1.

2. Storage in metal lockers provided the minimum required egress width is maintained.

(W) Section 901.4.6.1 Fire sprinkler riser room is added as follows:

(K) follows: Section 507.5.1 Hydrant for fire department connections is amended as follows:

Buildings equipped with a fire department connection installed in accordance with Section 912 shall have a fire hydrant located on a fire access road within 100 feet (30 m) of the fire department connection as measured by an approved route around the exterior of the building.

Exception:

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The distance shall be permitted to exceed 100 feet (30 m) where approved by the fire code official.

(L) Section 511 Fire and emergency vehicle lane is added.

(M) Section 511.1 General is added as follows:

Fire and emergency vehicle lanes shall be provided and maintained in accordance with Section 511.1 through 511.6 and referred to as fire lanes in this ordinance.

(N) Section 511.2 Purpose is added as follows:

The requirement that Fire Lanes be established in certain areas and the enforcement of restrictions on parking in such Fire Lanes established in this Chapter are designed to ensure adequate access to commercial, office, multi-family, and other high density facilities by fire-fighting and other emergency vehicles.

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The Fire Code Official may designate fire lanes on public and private property as deemed necessary for the protection of life and property.

(P) Section 511.4 Obstruction is added as follows:

No person shall park or place a vehicle or other obstruction in a designated fire lane that would prevent such fire lane from being immediately accessible to emergency vehicles, or deter or hinder emergency vehicles from gaining immediate access to the fire lane. A written request for a temporary obstruction of a fire lane shall be submitted to the fire code official for approval.

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Whenever a fire lane has been designated, the fire code official shall cause appropriate signs and markings to be placed identifying such fire lanes. Signs and markings shall be maintained in a clean and legible condition at all times and shall be replaced or repaired to provide adequate visibility. Fire lanes may be established or relocated at the time of plan review, site inspection, and/or during post construction site inspection, as well as any time during the life of the occupancy. All designated fire lanes shall be clearly marked in the following manner:

1. Vertical curbs shall be painted red on the top and side, extending the length of the designated fire lane. Rolled curbs or surfaces without curbs shall have a red (6) inch wide stripe painted the length of the designated fire lane. One of the following lettering methods shall be utilized:

a. The words "NO PARKING - FIRE LANE" shall be stenciled with three (3) inch white letters and a minimum three-quarter (3/4) inch stroke on the face of the curbing, or in the absence of vertical curbing, on the painted red stripe. Spacing shall be at fifty (50) foot intervals or portions thereof.

2. Signage identifying fire lanes shall conform with the following:

a. Eighteen (18) inches tall and twelve (12) inches wide with red letters on a white reflective background.

b. Verbiage to read "Fire Lane - No Parking".

c. Signs shall be placed two (2) to four (4) feet from the edge of the fire lane with the bottom of the sign no less than five (5) feet from the ground and spaced every one-hundred (100) feet.

d. Sign may be placed on a building when approved by the fire code official.

(R) Section 604.8 Shutdown of emergency and standby power is added as follows:

In addition to the requirements of NFPA 110 for a remote manual stop, a switch of an approved type shall be provided to shut down the generator. The switch shall be provided at a location approved by the fire code official.

(S) Section 604.9 Emergency generator sign is added as follows:

Main electrical disconnects and main breaker panels supplied by the generator shall be provided with approved signs. Additionally, doors accessing emergency and standby power systems shall be provided with approved signs. Approved signs shall contain the

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word "CAUTION" in black letters at least two (2) inches high on a yellow background. Signs shall be placed so as to be readily discernible.

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Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition.
- (U) **Section 703.2.3 Door operation is amended as follows:**
Swinging fire doors shall close from the full open position and latch automatically. The door closer shall:
1. Exert enough force to close and latch the door from any partially open position.
 2. Be Underwriters Laboratory (UL) listed and of hydraulic type, spring type shall not be allowed.
- (V) **Section 807.5.2.1 Storage in corridors and lobbies is amended as follows:**
Clothing and personal effects shall not be stored in corridors and lobbies.
Exceptions:
1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 907.3.3.1.
 2. Storage in metal lockers provided the minimum required egress width is maintained.
- (W) **Section 901.4.6.1 Fire sprinkler riser room is added as follows:**
A fire sprinkler riser room shall be separate from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment (lighting, air compressor, and heater) required for the use of the fire sprinkler system and/or the fire alarm panel. The sprinkler riser room shall not be exclusively accessed from the electrical room, but the electrical room may be accessed from the riser room.
- (X) **Section 903.2.8.5 Residential Sprinkler is added as follows:**
An automatic residential fire sprinkler system shall be installed in one and two-family dwellings.
Exceptions:
1. An automatic fire sprinkler system shall not be required where additions or alterations are made to existing buildings that are not already provided with an automatic residential fire sprinkler system.
 2. One and two-family dwellings containing less than eight thousand (8,000) square feet of floor space, excluding attached garages and other unenclosed areas.
- (Y) **Section 903.4.2 Alarms is amended as follows:**
An approved weather-proof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.
- (Z) **Section 907.2.2 Group B is amended as follows:**
A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:
1. The combined Group B occupant load of all floors is 500 or more.
 2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
 3. The Group B fire area contains an educational occupancy for students above the twelfth (12th) grade with an occupant load greater than 50 persons.
 4. The fire area contains an ambulatory care facility.

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(AA) Section 907.2.3 Group E is amended as follows:

In the absence of a complete automatic sprinkler system, a complete automatic detection system utilizing an emergency voice/alarm communication system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or non-occupied area utilizing an emergency voice/alarm communication system in compliance with Section 907.5.2.2 and installed in accordance with Section 907.6. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exception:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - a. Interior corridors are protected by smoke detectors with alarm verification.
 - b. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - c. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - d. Off-premises monitoring is provided.
 - e. The capability to activate the evacuation signal from a central point is provided.
 - f. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.
 - g. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification devices will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.
 - h. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

(BB) Section 915.1 Carbon monoxide general is amended as follows:

Carbon monoxide detection shall be installed in new and existing buildings in accordance with Sections 915.1.1 through 915.6, Section 1103.9, and Iowa Administrative Code 661-211.

(CC) Section 1003.8 Frost protection is added as follows:

Exterior landings at doors shall be provided with frost protection.

(DD) Section 1008.3.1 General is amended as follows:

In the event of the power supply failure in rooms and spaces that require two or more means of egress or are more than 400 square feet or greater, an emergency electrical system shall automatically illuminate all of the following areas:

1. Aisles.
2. Corridors.
3. Exit access stairways and ramps.

(EE) Section 1008.3.2 Buildings is amended as follows:

In the event of the power supply failure in rooms and spaces that require two or more means of egress or are more than 400 square feet or greater, an emergency electrical system shall automatically illuminate all of the following areas:

1. Interior exit access stairways and ramps.
2. Interior and exterior exit stairways and ramps.

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3. Exit passageways.
4. Vestibules and areas on the level of exit discharge used for exit discharge in accordance with Section 1028.1.
5. Exterior landings as required by Section 1010.1.6 for exit doorways that lead directly to the exit discharge.

(FF) Section 1009.2 Continuity and components is amended as follows:

Each required accessible means of egress shall be continuous to a public way and shall consist of one or more of the following:

1. Accessible route complying with Section 1104.
2. Interior exit stairways complying with Sections 1009.3 and 1023.
3. Exit access stairways complying with Section 1009.3 and 1019.3 or 1019.4.
4. Exterior exit stairways complying with Sections 1009.3 and 1027 and serving levels other than the level of exit discharge.
5. Elevators complying with Section 1009.4.
6. Platform lifts complying with Section 1009.5.
7. Horizontal exits complying with Section 1026.
8. Ramps complying with Section 1012.
9. Areas of refuge complying with Section 1009.6.
10. Exterior areas for assisted rescue complying with Section 1009.7 serving exits at the level of exit discharge.
11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

(GG) Section 1010.1.6. Landings at doors is amended as follows:

Landings shall have a width not less than the width of the stairway or door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, doors in any position shall not reduce the landing to less than one-half its required width. Landings shall have a length measured in the direction of travel of not less than 44 inches (1118 mm). For landings required by Section 1010.1.5 to be the same elevation on each side of the door, exterior landings shall be provided with frost protection.

Exception:

1. Landing length in the direction of travel in Groups R-3 and U and within individual units of Group R-2 need not exceed 36 inches (914 mm).

(HH) Section 1010.1.6.1 Frost protection at exterior landings is added as follows:

Exterior landings at doors shall be provided with frost protection.

(II) Section 1010.1.9.1 Hardware is amended as follows:

Door handles, pulls, latches, locks, and operating devices on doors required to be accessible by Chapter 11 shall not require tight grasping, tight pinching or twisting of the wrist to operate. Thumb turn locks shall not be allowed.

(JJ) Section 1028.6 Exit discharge pathway is added as follows:

Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

(KK) Section 1029.1.1 Bleachers is amended as follows:

Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with International Code Council (ICC) 300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2012 Edition, with the following amendments to ICC-300:

ICC-300 105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions

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during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

ICC-300 501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding an telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

(LL) Section 1030.5.3 Window well drainage is added as follows:

All window wells shall be provided with approved drainage.

(MM) Section 1103.7.1 Existing Group E shall be amended as follows:

Existing Group E occupancies shall be provided with a fire alarm system utilizing an emergency voice/alarm communication system in conjunction with Section 907.5.2.2 and installed in accordance with Section 907.6. As a minimum, smoke detection shall be provided in corridors at a maximum spacing of 30 feet on center, and heat or smoke detection shall be provided in any hazardous or non-occupied areas.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet of another building.
2. Group E occupancy with an occupant load of less than 50.
3. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6. shall not be required in Group E occupancies with occupant loads of 100 or less, provided the activation of the fire alarm system initiates an approved notification signal in accordance with Section 907.5.

(NN) Section 1103.8 Single and multiple-station smoke alarms is amended as follows:

Single and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 1103.8.1 through 1103.8.4.

(OO) Section 1103.8.4 Smoke alarm service life is added as follows:

Single-station battery operated smoke alarms shall be replaced in accordance with the manufacturer's instructions.

(PP) Section 1103.9 Carbon monoxide alarms is amended is follows:

Existing I-1, I-2, I-4, and R occupancies shall be equipped with carbon monoxide alarms in accordance with Section 915 and Iowa Administrative Code 661-211.

(QQ) Section 1107 Requirements for fuel fired appliances is added.

(RR) Section 1107.1 Protection of fuel fired appliances is added as follows:

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Where required or upon notification from the fire code official an existing building or tenant space containing a fuel fired appliance(s) shall be protected as required in Table 509, Incidental Uses, in the International Building Code 2015 edition.

(SS) Chapter 38 Special Events is added.

(1) Section 3801 General is added.

(2) Section 3801.1 Scope is added as follows:

Special events including trade shows and exhibitions, outdoor assembly events, and special amusement buildings shall comply with this chapter and Section 1028. Temporary indoor vehicle displays and vehicle competition or demonstrations shall comply with this chapter and Section 314.

(3) Section 3801.2 Site plan is added as follows:

A detailed site plan shall be submitted to the fire code official with each permit application for approval. Permit application and site plan shall be submitted a minimum of 30 business days prior to the event. Site plans shall include, but not be limited to:

1. Location of fencing or means to confine attendees.
2. The means of egress.
3. Location and width of exits and aisles.
4. Location of exit signs.
5. Total square footage of the enclosed space.
6. Location and arrangement of all tents, booths, and cooking equipment.
7. Location of all fire protection equipment.
8. Type and location of heating and electrical equipment where applicable.
9. Location of fire and emergency service access roads where applicable.

(4) Section 3802 General Requirements is added.

(5) Section 3802.1 Access for firefighting and medical services is added as follows:

Approved vehicle access for firefighting and medical services shall be provided in accordance with Sections 503 and 512.

(6) Section 3802.2 Combustible storage is added as follows:

Combustible materials stored at special events shall be stored in approved locations and containers.

(7) Section 3802.3 Fire protection equipment clearance is added as follows:

Clearance around all fire protection equipment shall be in accordance with Section 507.5.4 and 507.5.5.

(8) Section 3802.4 Fire extinguishers is added as follows:

Fire extinguishers shall be in accordance with Section 906 and NFPA 10.

(9) Section 3802.5 Fire watch is added as follows:

Fire watch, if required, shall be in accordance with Section 403.12.1.

(10) Section 3802.6 Housekeeping is added as follows:

The special event area and related areas shall be kept free from combustible debris.

(11) Section 3802.7 LP-gas heater is added as follows:

Fuel supplies for liquefied-petroleum gas-fires heaters shall comply with Chapter 61 of the International Fire Code.

(12) Section 3802.8 Open flame device is added as follows:

Open flame devices shall comply with Section 308.

(13) Section 3802.8 Waste disposal is added as follows:

Combustible debris shall not be allowed to accumulate at special events.

Combustible debris, rubbish, and waste material shall be removed from special events at the end of each shift worked. Combustible debris, rubbish, and waste material shall not be disposed of by burning on the site.

(14) Section 3803 Trade shows and exhibitions is added.

(15) Section 3803.1 General is added as follows:

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Trade shows and exhibitions conducted within any occupancy shall comply with Chapter 38.

(16) Section 3803.2 Vehicles is added as follows:

Liquid and gas fueled and electric vehicles, boats, or other motor-craft and equipment used for display or demonstration within a building shall be in accordance with Section 314.

(17) Section 3803.3 Means of egress is added as follows:

Means of egress shall comply with this section and the requirements of Chapter 10.

(18) Section 3803.4 Travel distance is added as follows:

The maximum travel distance from any point in an exhibit to an exit access aisle shall not exceed 50 feet.

(19) Section 3803.5 Aisle width is added as follows:

Minimum aisle width inside a trade show or exhibition shall comply with the following:

<i>Square Footage of Exhibition</i>	<i>Minimum Aisle Width</i>
Less than 5,000 square feet	6 feet
5,000 to 15, 000 square feet	8 feet
Greater than 15,000 square feet	10 feet

(20) Section 3803.5.1 Obstructions is added as follows:

Aisles shall be kept clear of all obstructions, including but not limited to, fixtures and displays of goods for sale, chairs, tables, products, and displays.

(21) Section 3803.5.2 Exit signs is added as follows:

Exit signs shall be visible from all locations in the occupancy.

(22) Section 3803.6 Demonstration cooking and warming equipment or devices is added as follows:

Equipment and devices shall be isolated from the public by not less than 4 feet or by a non-combustible 3-sided barrier between the equipment and the public.

(23) Section 3803.6.1 Protection is added as follows:

Single-well cooking equipment using combustible oils shall meet the following:

1. A noncombustible lid of sufficient size to cover the cooking well completely shall be immediately available.
2. The cooking surface shall not exceed 288 square inches.
3. The equipment shall be placed on a noncombustible surface.
4. Cooking equipment shall be separated from combustible materials by a horizontal distance of at least 2 feet.

(24) Section 3803.6.2 Butane is added as follows:

Butane for cooking equipment shall be limited to one 10 ounce cylinder and one spare of the same size in storage, per appliance.

(25) Section 3804 Outdoor assembly events is added.

(26) Section 3804.1 General is added as follows:

Outdoor assembly events shall be in accordance with Section 3804 and Chapter 10.

(27) Section 3804.2 Occupant load is added as follows:

The fire code official shall establish an occupant load for the event site.

(28) Section 3804.3 Exits is added as follows:

Exits shall comply with Chapter 10 and be as remote from each other as practical and shall be provided as follows:

<i>Occupant Load</i>	<i>Minimum Number of Exits</i>
1 to 500	2
501 to 1,000	3
1,001 to 1,500	4
Each additional 500	Add 36 additional inches of exit width

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- (29) Section 3804.4 Exit Width is added as follows:
The aggregate clear width of exits shall be a minimum of 36 inches wide for each 500 persons accommodated.
- (30) Section 3804.5 Exit sign is added as follows:
Exits shall be identified with signs. The signs shall be weather-resistant with lettering on a contrasting background. The lettering shall be of sufficient height to be visible from 75 feet. Placement of exit signs shall be approved by the fire code official.
- (31) Section 3804.6 Concession stands, food booths, and retail booths is added.
- (32) Section 3804.6.1 General is added as follows:
Concession stands, food booths, and retail booths shall be in accordance with Section 3804.6.
- (33) Section 3804.6.2 Distances is added as follows:
A minimum of 20 feet shall be provided between every 150 linear feet of booth space. A minimum of 30 feet shall be provided between booths used for cooking and vehicles, generators, or any other internal combustion engines. A minimum of 30 feet shall be provided between booths used for cooking and amusement rides.
- (34) Section 3804.6.3 Cooking appliances and devices is added as follows:
Cooking equipment and devices shall be isolated from the public by not less than 4 feet or by a non-combustible 3-sided barrier between the equipment and the public. Single-well cooking equipment using combustible oils shall meet the following:
1. A noncombustible lid of sufficient size to cover the cooking well completely shall be immediately available.
 2. The cooking surface shall not exceed 288 square inches.
 3. The equipment shall be placed on a noncombustible surface.
 4. Cooking equipment shall be separated from combustible materials by a horizontal distance of at least 2 feet.
- (35) Section 3804.6.4 Liquefied petroleum gas (LP-gas) is added as follows:
LP-gas shall be in accordance with Chapter 61 and NFPA 58.
- (36) Section 3804.6.5 Maximum number and quantity is added as follows:
A maximum of a total aggregate water capacity of 50 gallons of LP-gas is permitted at one concession stand or booth used for cooking.
- (37) Section 3804.6.6 Storage of containers is added as follows:
LP-gas containers shall be stored in accordance with Chapter 61.
- (38) Section 3804.6.7 Generators /electrical is added as follows:
Generators shall be installed at least 10 feet from combustible materials and shall be isolated from the public by physical guard, fence, or enclosure installed at least 3 feet away from the power source, and be provided with a fire extinguisher per Section 906 and NFPA 10.
- (39) Section 3805 Mobile food vehicles is added.
- (40) Section 3805.1 General is added as follows:
Mobile food vehicles which are temporarily or permanently stored on a property where food items are processed or prepared and sold to the public shall comply with this section.
- Exception:**
Food peddlers operating a retail food establishment from a vehicle designated to be readily movable in which food is sold or given away, but not composed, compounded, thawed, reheated, cut, cooked, processed or prepared.
- (41) Section 3805.2 Type I hood is added as follows:
A type I hood shall be installed at or above all commercial cooking equipment and domestic cooking appliances used for commercial purposes that produce grease vapors.
- (42) Section 3805.2.1 Maintenance is added as follows:
Hoods shall be inspected, tested, and maintained in accordance with this code.
- (43) Section 3805.2.2 Inspection and tests is added as follows:

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Kitchen hood extinguishment systems shall be inspected and tested annually by a State of Iowa licensed fire protection contractor. Mobile food vehicles shall be inspected annually by the fire code official for compliance with this section. Inspection shall occur in conjunction with annual Peddler/Solicitor/Transient Merchant application process.

(44) Section 3805.3 Fire extinguisher is added as follows:

An approved 2A:20 B:C rated dry chemical extinguisher shall be provided within 30 feet of any commercial cooking equipment. Additionally, cooking equipment involving solid fuels or vegetable or animal fats and oils shall be protected by a Class K rated portable fire extinguisher in accordance with Section 904.12.5.1 or 904.12.5.2 as applicable.

(45) Section 3805.4 Liquefied petroleum gas (LP-gas) is added as follows:

LP-gas shall be in accordance with Chapter 61 and NFPA 58.

(46) Section 3805.4.1 Maximum quantity is added as follows:

A maximum of two LP-gas containers with a total aggregate water capacity of 50 gallons (190 L) is permitted at one mobile food vehicle.

(47) Section 3805.4.2 LP-gas cylinder hose is added as follows:

Hoses shall be designed for a working pressure of 350 psig with a safety factor of 5 to 1 and shall be continuously marked with LP-Gas, Propane, and 350 PSI working pressure and the manufacturer's name or trademark. Hose assemblies, after the application of couplings, shall have a design capacity of 700 psig. Hose assemblies shall be leak tested at the time of installation at not less than the operating pressure of the system in which they are installed.

(48) Section 3805.5 Location is added as follows:

Mobile food vehicles shall not be located within 20 feet of buildings, tents, canopies, or membrane structures.

(49) Section 3806 Special amusement buildings is added

(50) Section 3806.1 General is added as follows:

Special amusement buildings shall be in accordance with this section and Section 411 of the International Building Code.

Exception:

Amusement buildings or portions thereof, which are without walls or a roof and are constructed to prevent the accumulation of smoke.

(51) Section 3806.2 Use of combustible decorative material is added as follows:

Use of decorative combustible materials shall be in accordance with Chapter 8.

(52) Section 3806.3 Assistance is added as follows:

Adult monitors with flashlights shall be available to provide assistance in the event someone becomes disoriented or lost. One adult monitor shall be provided for every 60 persons.

(53) Section 3806.4 Automatic sprinkler system is added as follows:

Special amusement buildings shall be equipped throughout with an automatic sprinkler system in accordance with Chapter 9.

(54) Section 3806.5 Temporary special amusement building is added as follows:

Where the special amusement building is temporary, the sprinkler water supply shall be of an approved temporary means. The sprinkler piping shall be connected to a temporary water supply having sufficient capacity (flow and pressure) to supply residential or standard quick spray response heads at a minimum design density of 0.15 gpm per square foot of protected floor space. The temporary water supply may be connected to a domestic water line, a fire line, or temporary on-site storage tank as long as the minimum design densities are met.

(TT) Section 5704.2.9.6.1 Locations where above-ground tanks are prohibited is amended as follows:

Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited.

Exception:

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Areas zoned as M1 and M2.

(2013 Code, § 12-2) (Ord. 14184, passed 7-9-1984; Ord. 14426, passed 1-14-1986; Ord. 14231, passed 5-27-1986; Ord. 14373, passed 3-23-1993; Ord. 14543, passed 6-10-1996; Ord. 14805, passed 4-9-2007; Ord. 14985, passed 7-22-2019)

§ 91.003 ENFORCING OFFICER.

The Chief of the Fire Department shall be the enforcing officer of the provisions of the International Fire Code and take such action upon reports of the Fire Marshal as are required hereby to obtain or enforce compliance herewith and shall have the assistance of the Legal Department in relation thereto.

(2013 Code, § 12-3) (Ord. 14184, passed 7-9-1984; Ord. 14231, passed 5-27-1986; Ord. 14373, passed 3-23-1993; Ord. 14543, passed 6-10-1996; Ord. 14805, passed 4-9-2007)

§ 91.004 APPEALS.

Whenever the Chief or designated subordinate disapproves an application or refuses to grant a permit applied for, or which it is claimed that the provisions of the code do not apply or the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief to the Fire Code Board of Appeals as provided for by § 108 of the International Fire Code within 30 days from the date of the decision appealed.

(2013 Code, § 12-4) (Ord. 14184, passed 7-9-1984; Ord. 14231, passed 5-27-1986; Ord. 14373, passed 3-23-1993; Ord. 14543, passed 6-10-1996; Ord. 14805, passed 4-9-2007)

§ 91.005 VIOLATIONS.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, occupy, use or maintain any building or structure in the city or cause the same to be done, contrary to or in violation of any of the provisions of this code.

(2013 Code, § 12-5) (Ord. 14184, passed 7-9-1984; Ord. 14231, passed 5-27-1986; Ord. 14373, passed 3-23-1993; Ord. 14543, passed 6-10-1996; Ord. 14805, passed 4-9-2007) Penalty, see § 91.999

OPEN BURNING

§ 91.020 DEFINITIONS.

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

BACKYARD. Any area as defined under Ch. 158 of this code of ordinances.

BACKYARD BURNING. The burning of natural vegetation origination on the premises and burnt by individuals domiciled on or owning the premises. **NATURAL VEGETATION** includes, but is not limited to, leaves, grass, small branches, flower remains and trimmings.

BONFIRE. An outdoor fire utilized for ceremonial purposes that exceeds the size requirements of a recreational fire.

GARBAGE. All solid and semi-solid putrescible and non-putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing and serving of food or of material intended for use as food.

HAZARDOUS CONDITIONS. Environmental factors, such as wind, temperature, and relative humidity that contribute to hazardous burning conditions.

OPEN BURNING. Any burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber as defined by the International Fire Code as adopted by the city.

OPEN BURNING does not include recreational fires or the use of outdoor portable fireplaces.

PORTABLE OUTDOOR FIREPLACE. A portable, outdoor, solid-fuel burning fireplace that may be constructed of steel, concrete, clay, or other non-combustible material.

RECREATIONAL FIRE. An outdoor fire burning material other than rubbish or yard waste where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, and barbeque grill and has a total fuel area of three feet or less in diameter and two feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

RUBBISH. All waste materials of non-putrescible nature.
(2013 Code, § 12-77) (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019)

§ 91.021 BURNING GARBAGE PROHIBITED.

No person, firm or corporation shall dispose of garbage at any time by burning same.

(2013 Code, § 12-78) (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019)
Penalty, see § 91.999

§ 91.022 BURNING OF RUBBISH PROHIBITED.

It shall be unlawful for any person, firm or corporation to do open burning of rubbish.

(2013 Code, § 12-79) (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019) Penalty, see § 91.999

§ 91.023 BURNING DISEASED TREES.

Diseased trees may be burned in areas designated by the Fire Chief or his designee and upon terms and conditions he or she may prescribe.

(2013 Code, § 12-80) (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019)

§ 91.024 PERMISSIBLE OPEN BURNING.

It shall be lawful to engage in open burning of plant material grown on the premises or deposited thereon by the elements by the owner or occupant of the premises involved, subject to the following.

(A) Open burning is allowed between the dates of April 1 through June 30 and October 1 through November 30.

(B) Open burning shall occur in the backyard Monday through Sunday between the hours of 10:00 a.m. and 7:00 p.m. and is limited to single-family dwellings only. Burning on public streets and alleys is prohibited. Burning on the property of another is prohibited unless the property owner grants permission, i.e. neighbors, neighborhoods, and all open burning regulations shall apply. All open burning piles shall be extinguished by 7:00 p.m.

(C) Open burning of any material is not allowed by an owner or occupant of premises upon which more than one family dwelling unit is found.

(D) Open burning is not allowed on holidays as defined: Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas, and New Year's Day.

(E) Open burning shall be prohibited when atmospheric conditions make such fires hazardous and includes:

(1) Wind speed greater than 15 mph;

(2) Extended dry weather conditions.

(F) Open burning shall not be less than 50 feet from any structure. Fire in enclosed containers with a cover to control flying embers shall not be less than 15 feet from any structure.

(G) Any open burning must be constantly supervised by a competent person equipped with a satisfactory means of fire control.

(H) Burning by commercial business is prohibited unless a burn permit is obtained from the Fire Department. If a permit is issued, all requirements for open burning shall be followed.

(I) All open burning must be in compliance with the International Fire Code as adopted by the city. (2013 Code, § 12-81)

(Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019) Penalty, see § 91.999

§ 91.025 RECREATIONAL BURNING ALLOWED; REAR AND SIDE YARD RESTRICTIONS; PINE AND SPRUCE TREES.

(A) Recreational fires are allowed both on the ground and in a container designed for this purpose at one-and two-family dwellings.

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- (1) Recreational fires on the ground shall not be conducted within 25 feet of a structure or combustible material.
 - (2) Recreational fires contained in appliances specifically designed for this purpose shall not be operated within 15 feet of a structure or combustible material.
 - (3) Bonfires shall follow the listed requirements for recreational burning with the following exceptions:
 - (a) A permit is required from the fire code official;
 - (b) Bonfires are required to be 50 feet from any structure and 15 feet from property lines.
 - (4) The responsible party must provide a means to control flying embers.
 - (5) All recreational fires must be extinguished by 2:00 a.m.
 - (6) Recreational fires shall be attended at all times until the fire is extinguished.
 - (7) Responsible party shall have available at all times a sufficient means of extinguishment to include any of the following:
 - (a) Garden hose connected to a continuous water supply;
 - (b) Fire extinguisher complying with Section 906 of the International Fire Code;
 - (c) Dirt or sand.
 - (8) Municipal camping areas are exempt from the requirements of this section except for the restrictions on size.
 - (9) Recreational fires are allowed year round.
 - (B) Subject to contrary provisions of the International Fire Code, as adopted by the city, open burning of permitted plant material, on permitted premises, shall be at least 15 feet from side and rear yard boundary lines.
 - (C) It shall be unlawful to engage in open burning within 20 feet of any part of a pine or spruce tree.
- (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019) Penalty, see § 91.999

§ 91.026 FIRE DEPARTMENT RESPONSE FEE.

Any violation of the rules concerning prohibited and open burning, which require a response by the city's Fire Department to control or extinguish, will be subject to a response fee as established by resolution. Commercial property found in violation of this subchapter shall be charged the permit fee for open burning as established by resolution.

(2013 Code, § 12-85) (Ord. 14825, passed 2-11-2008; Ord. 14985, passed 7-22-2019)

GAS STATIONS

§ 91.040 UNLAWFUL TO KEEP OR STORE GASOLINE OR INFLAMMABLE LIQUIDS WITHOUT PERMIT.

It shall be unlawful to keep or store gasoline or other inflammable liquids in quantities of 25 gallons, or more, in any gasoline station, store or other place, whether above or below ground, for the purpose of sale or distribution therefrom, without first obtaining a permit therefor from the Council.

(2013 Code, § 17-111) (Ord. 40, passed 8-14-1950) Penalty, see § 10.999

§ 91.041 INVESTIGATION BY COUNCIL; GRANTING PERMIT.

The Council shall investigate such application, the plats submitted therewith, the location, kind and construction of the magazines or tanks to be installed and, if in compliance with the provisions of law and this code or ordinances and other ordinances, may grant the permit therefor.

(2013 Code, § 17-112) (Ord. 40, passed 8-14-1950)

§ 91.042 PERMIT APPLICATION; PLANS AND SPECIFICATIONS OF PREMISES.

Any person, firm or corporation, desiring a permit for the construction, maintenance or operation of any magazine, tank, building or other place for the keeping or storing for sale or distribution of gasoline or other inflammable liquids, shall make application therefor to the Council, and shall file with such application a plat drawn to scale showing thereon the location of the premises, the buildings or structures to be erected or used thereon, the plans and specifications of buildings, the location, description and kind of the magazines or tanks to be installed and the location and present use of all buildings within 100 feet of such premises.

(2013 Code, § 17-113) (Ord. 40, passed 8-14-1950)

§ 91.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person, firm or corporation violating §§ 91.020 through 91.025 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in § 10.999(A) of this code of ordinances. Each day upon which such violation occurs shall constitute a separate violation.

(2013 Code, § 12-86) (Ord. 14825, passed 2-11-2008)

CHAPTER 92: HAZARDOUS CONDITIONS AND SUBSTANCES

Section

- 92.001 Definitions
- 92.002 Clean-up required; liability for costs
- 92.003 Notifications
- 92.004 Police authority
- 92.005 Liability

- 92.999 Penalty

§ 92.001 DEFINITIONS.

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

CLEAN-UP. Actions necessary to contain, collect, control, identify, analyze, clean-up, treat, disperse, remove or dispose of a hazardous substance or hazardous waste.

HAZARDOUS CONDITION. Any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into a water of the state or into the atmosphere that creates an immediate or potential danger to the public health or safety.

HAZARDOUS SUBSTANCE. Any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive or flammable or that is an irritant or that generates pressure through decomposition, heat or other means. **HAZARDOUS SUBSTANCE** may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act being 42 U.S.C. §§ 6941 et seq., as amended by the Resource Conservation and Recovery Act of 1976 being 42 U.S.C. §§ 6901 et seq., or any toxic pollutant listed under § 307 of the Federal Water Pollution Control Act being 33 U.S.C. § 1317, as amended to 1-1-1977, or any hazardous substance designated under § 311 of the Federal Water Pollution Control Act being 33 U.S.C. § 1321, as amended to 1-1-1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

HAZARDOUS WASTE.

(1) A waste or combination of wastes that, because of its quantity; concentration; biological degradation; leaching from precipitation; or physical, chemical or infectious characteristics, has either of the following effects:

- (a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (b) Poses a substantial danger to human health or the environment.

(2) Hazardous waste may include, but is not limited to, wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives. **HAZARDOUS WASTE** does not include the following:

(a) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners; and

(b) Source, special nuclear or byproduct material as defined in the Atomic Energy Act of 1954, being 42 U.S.C. §§ 2011 et seq., as amended to 1-1-1979.

PERSON. Individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

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

TREATMENT.

(1) A method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safe for transport, amenable for recovery, amenable for storage or to reduce it in volume.

(2) **TREATMENT** includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

(2013 Code, § 14.5-1) (Ord. 14256, passed 5-11-1987)

Statutory reference:

"Clean-up" defined, see I.C.A. § 455B.381(1)

"Hazardous condition" defined, see I.C.A. § 455B.381(4)

"Hazardous substance" defined, see I.C.A. § 455B.381(5)

"Person" defined, see I.C.A. § 4.1(20)

§ 92.002 CLEAN-UP REQUIRED; LIABILITY FOR COSTS.

(A) (1) Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a clean-up, as defined in § 92.001 of this chapter, as rapidly as feasible to an acceptable safe condition and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of clean-up shall be borne by the responsible person.

(2) If the responsible person does not cause the clean-up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the city may, by an authorized officer, give reasonable notice based on the character of the

hazardous condition, setting a deadline for commencing and accomplishing the clean-up or the city may proceed to procedure clean-up services. If the cost of the clean-up is beyond the capacity of the city to finance, the authorized officer shall report to the City Council and immediately seek any state or federal funds available for such clean-up.

(2013 Code, § 14.5-2)

(B) Under this chapter, the responsible person shall be strictly liable to the city for all of the following:

(1) The reasonable clean-up costs incurred by the city as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person, including emergency treatment of the hazardous condition;

(2) The reasonable costs incurred by the city to evacuate people from the area threatened by a hazardous condition caused by the person; and

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

(2013 Code, § 14.5-3)

(Ord. 14256, passed 5-11-1987) Penalty, see § 92.999

§ 92.003 NOTIFICATIONS.

(A) (1) A person manufacturing, storing, handling, transporting or disposing of a hazardous substance or waste shall notify the city's Fire Department of the occurrence of a hazardous condition as soon as possible, but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition.

(2) The Fire Department shall notify the proper state office in the manner established by the state.

(B) Any city employee or any member of a law enforcement agency or any member of the city's Fire Department who discovers a hazardous condition shall notify the Fire Department, which shall notify the appropriate city departments and the proper state office in the manner established by the state.

(2013 Code, § 14.5-4) (Ord. 14256, passed 5-11-1987)

§ 92.004 POLICE AUTHORITY.

(A) If the circumstances reasonably so require under this chapter, the Police Chief may:

(1) Evacuate persons from their homes to areas away from the site of a hazardous condition; and

(2) Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to clean-up personnel.

(B) No person shall disobey an order of the Police Chief or any other peace officer/law enforcement officer issued under this section.

(2013 Code, § 14.5-5) (Ord. 14256, passed 5-11-1987) Penalty, see § 92.999

§ 92.005 LIABILITY.

The city shall not be liable to any person for claims of damages, injuries or losses resulting from any hazardous condition, except if the city is the responsible person, as defined in § 92.001 of this chapter.

(2013 Code, § 14.5-6) (Ord. 14256, passed 5-11-1987)

§ 92.999 PENALTY.

Any person violating any provision, section or paragraph of this chapter shall be guilty of a misdemeanor and on conviction thereof be punished by a penalty as provided in § 10.999(A) of the code of ordinances. Each day a violation occurs shall constitute a separate offense.

(2013 Code, § 14.5-7) (Ord. 14256, passed 5-11-1987; Ord. 14970, passed 11-27-2017)

CHAPTER 93: PARKS AND RECREATION; LEISURE

Section

- 93.001 Camping; time limits; permit; fee
- 93.002 Fires
- 93.003 Animals in park or playground
- 93.004 Litter and sewage disposal
- 93.005 Removal of plants prohibited
- 93.006 Hours for public use
- 93.007 Alcoholic beverages

- 93.999 Penalty

§ 93.001 CAMPING; TIME LIMITS; PERMIT; FEE.

(A) *General.* Camping in all parks, playgrounds or other public grounds in the city is prohibited, except as may be permitted by the Director of Parks and Recreation at designated areas at Riverview Park or other sites for special events.

(2013 Code, § 21.5-1)

(B) *Time limit for camping in Riverview Park.* Camping in the designated areas of Riverview Park shall be limited to no more than seven consecutive days per

unit. The Director of Parks and Recreation may extend the limitation under this section for special events or special circumstances, but in no event shall the extension exceed seven additional consecutive days. The Director may shorten the limitation under this section or prohibit camping when camping may cause damage to the area.

(2013 Code, § 21.5-2)

(C) *Camping permitted in other parks.* The Director of Parks and Recreation may permit additional camping at other sites in Riverview Park or other locations for special events, but in no event for a period of longer than three days.

(2013 Code, § 21.5-3)

(D) *Camping fee and permit required.* Any person who camps in any designated camping area shall pay a fee to be set by the Director of Parks and Recreation and shall be issued a permit. The Director, for good cause, may revoke the camping permit.

(2013 Code, § 21.5-4)

(E) *Parking of vehicles and camping units.* All camping units and motor vehicles shall be parked in the areas designated in parks as directed by the Director of Parks and Recreation.

(2013 Code, § 21.5-5)

(Ord. 14051, passed 8-10-1981) Penalty, see § 93.999

§ 93.002 FIRES.

(A) No fire shall be permitted in any park, except in a place designated, and the fire shall be extinguished when the site is vacated.

(B) All fires shall be safe and the Director of Parks and Recreation may order any fire extinguished which, in his or her opinion, is unsafe.

(2013 Code, § 21.5-6) (Ord. 14051, passed 8-10-1981) Penalty, see § 93.999

§ 93.003 ANIMALS IN PARK OR PLAYGROUND.

(A) No privately owned animal shall be permitted to run at large in any park or playground, except dogs in areas specifically designed and set apart as an off-leash dog park by the city's Park and Recreation Department, if the dog and its owner are confined within such an area, and the owner has registered and followed the policies set for the area.

(B) No animal shall be permitted to do any damage to the parks or playgrounds.

(2013 Code, § 21.5-7) (Ord. 14051, passed 8-10-1981; Ord. 14872, passed 4-26-2010) Penalty, see § 93.999

§ 93.004 LITTER AND SEWAGE DISPOSAL.

(A) No person shall place any waste, refuse, litter or foreign substance in any park area or receptacle, except for those provided for that purpose.

(B) Sewage waste shall not be emptied in any camping area, unless a hook-up is provided.

(2013 Code, § 21.5-8) (Ord. 14051, passed 8-10-1981) Penalty, see § 93.999

§ 93.005 REMOVAL OF PLANTS PROHIBITED.

No plants, trees, flowers or other foliage may be removed, damaged, disturbed or defaced in any city-owned area.

(2013 Code, § 21.5-9) (Ord. 14051, passed 8-10-1981) Penalty, see § 93.999

§ 93.006 HOURS FOR PUBLIC USE.

(A) *Established.* All municipal parks and playgrounds in the city shall be closed to the public and public use between the hours of 11:30 p.m. through 6:00 a.m., and no person shall be allowed on the park premises between such hours, except as provided in division (B) below.

(B) *Exceptions.* This section shall not apply to city employees whose official duties may require them to be on the premises during the closed hours, persons lawfully camped at Riverview Park, or persons on the premises under the express written authority of the Parks and Recreation Director.

(C) *Signs.* The Parks and Recreation Director shall post suitable signs in conspicuous locations to advise the public of the closing and opening hours provided in this section.

(2013 Code, § 21.5-11) (Ord. 13202, passed 9-12-1977; Ord. 14970, passed 11-27-2017) Penalty, see § 93.999

§ 93.007 ALCOHOLIC BEVERAGES.

(A) No person shall possess, use or consume beer, wine or alcoholic liquor in a public park or nature area, including park roads and parking areas, except the following:

(1) Premises covered by a liquor control license; and

(2) Beer gardens as permitted by the Park and Recreation Department, with City Council approval.

(B) The following designated areas within park shelters and on cement patios attached to park shelters:

(1) Log Cabin, Riverview Park; Reunion Hall, Riverview Park; Community Building, Riverview Park; provided, the lessee:

(a) Has notified the Park and Recreation Department of the intent to serve alcoholic beverages at the time of the rental reservation;

(b) Has signed a responsibility agreement permitting this use;

(c) Shall be available for personal contact by park and recreation personnel at all times during the rental period; and

(d) Shall comply with all state and city codes regarding the use of alcoholic beverages.

(2) Within the campground at Riverview Park; provided, the person is a registered camper or the guest of a registered camper.

(2013 Code, § 21.5-12) (Ord. 14545, passed 6-24-1996; Ord. 14970, passed 11-27-2017) Penalty, see § 93.999

§ 93.999 PENALTY.

Anyone violating the provisions of §§ 93.001 through 93.007 of this chapter shall, upon conviction, be fined pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 21.5-10) (Ord. 13202, passed 9-12-1977; Ord. 14051, passed 8-10-1981; Ord. 14545, passed 6-24-1996; Ord. 14970, passed 11-27-2017)

CHAPTER 94: HUMAN RIGHTS; NON-DISCRIMINATION

Section

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Human Rights Commission

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- 94.016 Compensation
- 94.017 Election of officers
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GENERAL PROVISIONS

§ 94.001 SHORT TITLE.

This chapter may be cited as the “Marshalltown Human Rights Ordinance”.
(2013 Code, § 16-1) (Ord. 14175, passed 2-13-1984)

§ 94.002 DEFINITIONS.

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

AFFIRMATIVE ACTION. A plan whereby a set of specific, result-oriented procedures is established and to which a person commits itself to apply every good faith effort to achieve. The objective of those procedures is to ensure equal opportunity in public and private employment, housing, public accommodation, credit transactions and city contracts.

BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ). Discrimination on a prohibited basis is lawful only if it results from a bona fide occupational qualification essential to the normal operation of the employer’s business or enterprise. The **BFOQ EXCEPTION** will be interpreted narrowly, and the burden of proving that a prohibited basis is a **BFOQ** rests upon the party seeking to rely upon the exception. Customer or employer preference or historical usage, tradition or custom or stereotyped characterizations will not merit the exception.

COMMISSION. The city’s Human Rights Commission.

COMPLAINANT. The person filing a complaint with the Commission.

CONTRACT. Any agreement that is awarded, let, procured or entered into with or on behalf of the city or any awarding authority thereof.

CONTRACTING AUTHORITY. Any city department, agency, commission, authority, board or person, or any authorized employee, officer or director of any of such, including any purchasing agent of the city who makes or enters into any contract

agreement for the provision of any goods or services of any kind or nature whatsoever for and on behalf of the city.

COURT. The District Court in and for the county, or any judge or magistrate of such court if the court is not in session at that time.

DISABILITY. The physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of **DISABILITY** under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

EMPLOYEE. Any person employed by an employer.

EMPLOYER. The city, or any board, commission, department or agency thereof, and every other person employing employees whose employment or any part thereof is within the city.

EMPLOYMENT AGENCY. Any person undertaking to procure employees or opportunities to work for any other person or any person holding himself, herself or itself to be equipped to do so.

FAMILIAL STATUS.

(1) One or more individuals under the age of 18 years domiciled with one of the following:

(a) A parent or another person having legal custody of the individual;

(b) The designee of the parent or the other person having custody of the individual, with the written permission of the parent or other person; or

(c) A person who is pregnant or is in the process of securing legal custody of the individual.

(2) Such term also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of 18 years.

FAMILY. Any individual and his or her spouse and the lineal ascendants and descendants of either whom live in the same household.

LABOR ORGANIZATION. Any organization that exists for the purpose in whole or in part of collective bargaining; of dealing with employers concerning grievances, terms or conditions of employment; or of other mutual aid or protection in connection with employment.

PERSON. One or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers and the city or any board, commission, department or agency thereof.

PERSON CHARGED. A person who is alleged to have committed an act prohibited by §§ 94.035 through 94.041 of this chapter, against whom a charge or complaint has been filed, as provided in §§ 94.055 through 94.064 of this chapter.

PUBLIC ACCOMMODATION. Each and every place, establishment or facility of whatever kind, nature or class that caters or offers services, facilities or goods for a fee

or charge to non-members of any organization or association utilizing the place, establishment or facility; provided that, any place, establishment or facility that caters or offers services, facilities or goods to the non-members gratuitously shall be deemed a **PUBLIC ACCOMMODATION** if the accommodation receives governmental support or subsidy. The term **PUBLIC ACCOMMODATION** shall not mean any bona fide private club or other place, establishment or facility that is by its nature distinctly private, except when such distinctly private place, establishment or facility caters or offers services, facilities or goods to the non-members for fee or charge or gratuitously, it shall be deemed a **PUBLIC ACCOMMODATION** during such period.

RESPONDENT. The person against whom a complaint has been filed with the Commission.

RETALIATION. Any act directed at a complainant or other person with the intent of affecting that person unfavorably because of his or her formal or informal efforts to secure or aid in securing compliance with this chapter.

(2013 Code, § 16-2) (Ord. 14175, passed 2-13-1984)

HUMAN RIGHTS COMMISSION

§ 94.015 CREATION; COMPOSITION; APPOINTMENT; TERMS; VACANCIES; REMOVAL.

There is created a commission, to be known as the “City Human Rights Commission”, which shall consist of seven members, appointed by the Mayor with the advice and consent of the City Council. Appointees shall serve for a term of three years and thereafter until a successor has been appointed. Vacancies shall be filled for the remainder of the unexpired term. Appointments shall take into consideration the various racial, religious, cultural and social groups in the city. Any Commissioner may be removed from office by the Mayor for cause, which shall be stated in writing and filed with the Secretary of the Commission.

(2013 Code, § 16-3) (Ord. 14175, passed 2-13-1984)

§ 94.016 COMPENSATION.

The members of the Human Rights Commission shall serve without compensation, except actual and necessary expenses incurred, within the limits established in the city budget.

(2013 Code, § 16-4) (Ord. 14175, passed 2-13-1984)

§ 94.017 ELECTION OF OFFICERS.

The Human Rights Commission shall elect from its own membership at its regular January meeting its Chairperson and Vice-Chairperson, each to serve for a term of one year. It shall, at its regular January meeting, elect a Secretary, who may be, but need not be, a member of the Commission. The Commission shall fill vacancies among its officers for the remainder of the unexpired term.
(2013 Code, § 16-5) (Ord. 14175, passed 2-13-1984)

§ 94.018 REGULAR AND SPECIAL MEETINGS; QUORUM; RULES.

(A) The Human Rights Commission shall meet as needed at a time and place to be determined.

(B) The Chairperson, the Vice-Chairperson or any three members of the Commission may call a special meeting by giving at least one clear day's notice to every member of the Commission. The call for a special meeting shall include an agenda and only matters included in that agenda may be discussed at the meeting.

(C) A quorum of the Commission shall be four members. A majority of the members present and voting shall be necessary for the passage of any motion. The Chairperson shall vote as a member of the Commission.

(D) The Commission may adopt, amend or rescind such rules as may be necessary for the conduct of its business. Such rules shall be in writing and filed with the Secretary of the Commission. Any proposed changes in such rules shall be proposed at a regular or called meeting of the Commission and action thereon deferred for at least 30 days.

(2013 Code, § 16-6) (Ord. 14175, passed 2-13-1984; Ord. 14689, passed 4-23-2002)

§ 94.019 MEETINGS AND RECORDS PUBLIC; EXCEPTIONS.

(A) All meetings of the Human Rights Commission shall be public meetings, except:

(1) The Commission may hold a closed session by affirmative vote of two-thirds of its members present, the votes on such motion being recorded in the minutes by yeas and nays, when necessary to prevent irreparable and needless injury to the reputation of an individual whose employment or discharge is under consideration, but any motion decided in such session shall be voted on by yeas and nays and shall be recorded in the minutes; and

(2) The Commission shall hold a closed session for consideration of any charge or complaint, as provided in §§ 94.055 through 94.064 of this chapter, and for deliberations in connection with a public hearing held pursuant to complaint filed by the Commission.

(B) All records of the Commission shall be public, except:

(1) Charges, complaints, reports of investigations, statements and other documents or records obtained in investigation of any charges shall be closed records; and

(2) The minutes of any session that is closed under the provisions of division (A)(2) above shall be closed records.

(C) No member of the Commission or of its staff shall disclose the filing of a charge; the information gathered during the investigation; or the endeavors to eliminate such discriminatory or unfair practice by conference, conciliation or persuasion, unless such disclosure is made in connection with the conduct of such investigation or after the Commission has held a public hearing upon a complaint filed in connection with such charge. This division (C) does not prevent any complainant, witness or other person from publicizing the filing of a charge or complaint or the matter therein complained of. (2013 Code, § 16-7) (Ord. 14175, passed 2-13-1984)

§ 94.020 AUTHORITY OF APPOINTMENT; DUTIES AND COMPENSATION.

If and when the City Council funds the position, the Human Rights Commission shall recommend the appointment of a Director to the City Council. If the City Council concurs, the Commission may appoint a Director and prescribe the duties of its Director and of other members of its staff as may be hired. The compensation for the Director, staff and for investigating causes or complaints shall be within the budget appropriations as fixed by the City Council and be available for the Commission's use in the year the same is levied. Any unused appropriation shall be carried forward from year to year to the credit of the city's Human Rights Commission.

(2013 Code, § 16-8) (Ord. 14175, passed 2-13-1984; Ord. 14689, passed 4-23-2002)

§ 94.021 GENERAL POWERS AND DUTIES.

The Human Rights Commission shall have the power and duty to:

(A) Receive, investigate and pass upon charges or complaints, alleging unfair or discriminatory practices, as provided in §§ 94.035 through 94.041 of this chapter;

(B) Investigate and study the existence, character, causes and extent of discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools and housing in the city and attempt the elimination of such discrimination by education and conciliation;

(C) Issue such publications and reports of investigations and research as, in the judgment of the Commission, shall tend to promote good will among the various racial, religious and ethnic groups of the city and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools or housing because of race, creed, color, sex, national origin, religion or ancestry;

(D) Prepare and transmit to the Mayor and Council from time to time, but not less often than once each year, reports describing its proceedings, investigations, hearings conducted and the outcome thereof, decisions rendered and the other work performed by the Commission;

(E) To make recommendations to the Mayor and council for such further legislation concerning discrimination because of race, creed, color, sex, national origin, religion, familial status or ancestry as it may deem necessary and desirable; and

(F) Cooperate within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are not inconsistent with those of this chapter, and in the planning and conducting of programs designed to eliminate racial, religious, cultural and intergroup tensions.

(2013 Code, § 16-9) (Ord. 14175, passed 2-13-1984; Ord. 14689, passed 4-23-2002)

§ 94.022 COOPERATION WITH OTHER HUMAN RIGHTS AGENCIES.

The Human Rights Commission shall cooperate with the state's Civil Rights Commission, the United States Civil Rights Commission, the Federal Equal Employment Opportunity Commission and other agencies with similar purposes.

(2013 Code, § 16-9.1) (Ord. 14175, passed 2-13-1984)

UNFAIR PRACTICES

§ 94.035 UNFAIR PRACTICES IN ACCOMMODATIONS AND SERVICES; EXCEPTIONS.

(A) It shall be an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager or superintendent of any public accommodation or any agent or employee thereof to:

(1) Refuse or deny to any person because of race, creed, color, sex, national origin, religion, marital status or disability the accommodations, advantages, facilities, services or privileges thereof or otherwise discriminate against any person because of race, creed, color, sex, national origin, religion, marital status or disability in the furnishing of such accommodations, advantages, facilities, services or privileges; and/or

(2) Advertise, directly or indirectly, or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, national origin, religion, marital status or disability is unwelcome, objectionable, not acceptable or not solicited.

(B) The provisions of division (A) above shall not apply to the following:

(1) Any bona fide religious institution with respect to any qualifications the institution may impose based on religion when such qualifications are related to bona fide religious purpose; or

(2) The rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his or her family reside therein.

(2013 Code, § 16-21) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.036 UNFAIR EMPLOYMENT PRACTICES; EXCEPTIONS.

(A) It shall be unfair or discriminatory practice for any:

(1) Person to refuse to hire, accept, register, classify or refer for employment; to discharge any employee; or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, national origin, marital status or disability of such applicant or employee, unless based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this division (A);

(2) Labor organization or the employees, agents or members thereof to refuse to admit to membership any applicant, to expel any member or to otherwise discriminate against any applicant for membership, or any member in the privileges, rights or benefits of such membership because of the age, race, creed, color, sex, national origin, religion, marital status or disability of such applicant or member;

(3) Employer, employment agency, labor organization or the employees, agents or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, national origin, religion, marital status or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership, unless based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection. An employer, employment agency or their employees, servants or agents may offer employment or advertise for employment to only persons with disabilities when other applicants have available to them other employment compatible with their ability which would not be available to persons with disabilities because of their disabilities. Any such employment or offer of employment shall not discriminate among persons with disabilities on the basis of race, color, creed, sex or national origin; and

(4) Person to solicit or require as a condition of employment of any employee or prospective employee a test for the presence of the antibody to the human immunodeficiency virus or to affect the terms, conditions or privileges of employment or terminate the employment of any employee solely as a result of the employee obtaining a test for the presence of the antibody to the human immunodeficiency virus. An agreement between an employer, employment agency, labor organization or their employees, agents or members and an employee or prospective employee concerning employment, pay or benefits to an employee or prospective employee in return for taking a test for the presence of the antibody to the human immunodeficiency virus is prohibited. The prohibitions of this division (A)(4) do not apply if the state's Epidemiologist determines and the Director of Public Health declares through the utilization of guidelines established by the Centers for Disease Control of the United States Department of Health and Human Services that a person with a condition related to acquired immune deficiency syndrome poses a significant risk of transmission of the human immunodeficiency virus to other persons in a specific occupation.

(B) Employment policies relating to pregnancy and childbirth shall be governed by the following:

(1) A written or unwritten employment policy or practice that excludes from employment an applicant or employee because of the employee's pregnancy is a prima facie violation of this chapter;

(2) Disabilities caused or contributed to by the employee's pregnancy, miscarriage, childbirth and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to the employee's pregnancy or giving birth, on the same terms and conditions as they are applied to other temporary disabilities;

(3) Disabilities caused or contributed to by legal abortion and recovery therefrom are, for all job-related purposes, temporary disabilities and shall be treated as such under any temporary disability or sick leave plan available in connection with employment. Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any temporary disability insurance or sick leave plan, formal or informal, shall be applied to a disability due to legal abortion on the same terms and conditions as they are applied to other temporary disabilities. The employer may elect to exclude health insurance coverage for abortion from a plan provided by the employer, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion;

(4) An employer shall not terminate the employment of a person disabled by pregnancy because of the employee's pregnancy; and

(5) (a) Where a leave is not available or a sufficient leave is not available under any health or temporary disability insurance or sick leave plan available in connection with employment, the employer of the pregnant employee shall not refuse to grant to the employee who is disabled by the pregnancy a leave of absence if the leave of absence is for the period that the employee is disabled because of the employee's pregnancy, childbirth or related medical conditions, or for eight weeks, whichever is less. However, the employee must provide timely notice of the period of leave requested, and the employer must approve any change in the period requested before the change is effective.

(b) Before granting the leave of absence, the employer may require that the employee's disability resulting from pregnancy be verified by medical certification stating that the employee is not able to reasonably perform the duties of employment.

(C) (1) This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of 18 years, unless that person is considered by law to be an adult.

(2) Notwithstanding the provisions of this section, a state or federal program designed to benefit a specific age classification that serves a bona fide public purpose shall be permissible.

(3) This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over 45 years of age.

(D) Division (A) above shall not apply to the following:

(1) Any employer who regularly employs less than four individuals. For purposes of this division (D), individuals who are members of the employer's family shall not be counted as employees;

(2) The employment of individuals for work within the home of the employer if the employer or members of his or her family reside therein during such employment;

(3) The employment of individuals to render personal service to the person of the employer or members of his or her family; and

(4) (a) Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose.

(b) A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.

(E) After a handicapped individual is employed, the employer shall not be required under this chapter to promote or transfer such handicapped person to another job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as a part of such agreement.

(2013 Code, § 16-22) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.037 UNFAIR HOUSING PRACTICES; EXCEPTIONS.

(A) (1) It shall be an unfair or discriminatory practice for any person, owner or person acting for an owner of rights to housing or real property, with or without compensation, including, but not limited to, persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representatives by power of attorney or appointment, or any person acting under court order, deed of trust or will to:

(a) Refuse to sell, rent, lease, assign, sublease, refuse to negotiate or otherwise make unavailable, or deny any real property or housing accommodation or any part, portion or interest therein to any person because of the race, color, sex, creed, religion, national origin, marital status, disability or familial status of such person;

(b) Discriminate against any person because of the person's race, color, sex, creed, religion, national origin, marital status, disability or familial status in the terms, conditions or privileges of the sale, rental, lease, assignment or sublease of any real property or housing accommodation or any part, portion or interest in the real property of housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation. For purposes of this

division (A)(1)(b), the term **PERSON** means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under U.S.C. Title 11, receivers and fiduciaries;

(c) Advertise, directly or indirectly, or in any other manner indicate or publicize that the purchase, rental, lease, assignment or sublease of any real property or housing accommodation or any part, portion or interest therein, by persons of any particular race, color, sex, creed, religion, national origin, marital status, familial status or disability is unwelcome, objectionable, not acceptable or not solicited; and/or

(d) Discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, disability, age or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives or in any similar capacity.

(2) A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, religion, national origin, disability or familial status.

(3) A person shall not represent to a person of a particular race, color, creed, sex, religion, national origin, disability or familial status that a dwelling is not available for inspection, sale or rental when the dwelling is available for inspection, sale or rental.

(4) A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to a buyer or renter because of a disability of any of the following persons:

(a) The buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; and/or

(c) A person associated with that buyer or renter.

(5) A person shall not discriminate against another person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of any of the following persons:

(a) The person;

(b) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; and/or

(c) A person associated with that person.

(6) For the purposes of divisions (A)(4) and (A)(5) above, **DISCRIMINATION** includes any of the following circumstances:

(a) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford the person full enjoyment of the premises. In the case of a rental, a landlord may, where reasonable to do so, condition permission for a modification on the renter's agreement to restore the interior of the

premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling;

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after 1-1-1992, a failure to design and construct those dwellings in a manner that meets the following requirements:

1. The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

2. All doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and

3. All premises within the dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.

(d) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for persons with disabilities, commonly cited as "ANSI A 117.1", satisfies the requirements of division (A)(6)(c) above.

(7) Nothing in this division (A) requires that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other persons or whose tenancy would result in substantial physical damage to the property of others.

(8) A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, religion, national origin, disability or familial status. For the purpose of this division (A)(8), the term **RESIDENTIAL REAL ESTATE RELATED TRANSACTION** means any of the following:

(a) To make or purchase loans or provide other financial assistance to purchase, construct, improve, repair or maintain a dwelling, or to secure residential real estate; and/or

(b) To sell, broker or appraise residential real estate.

(9) A person shall not deny another person access to, or membership or participation in a multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership or

participation in such organization because of race, color, creed, sex, religion, national origin, disability or familial status.

(B) Division (A) above shall not apply to the following:

(1) Any bona fide religious institution with respect to any qualifications it may impose based on religion, when such qualifications are related to a bona fide religious purpose;

(2) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of his or her family reside in one of such housing accommodations;

(3) The rental or leasing of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if he or she or members of his or her family reside therein; and/or

(4) Restrictions based on sex on the rental or leasing of housing accommodations by non-profit corporations. The rental or leasing of a housing accommodation within which residents of both sexes must share a common bathroom facility on the same floor of the building.

(2013 Code, § 16-23) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.038 AIDING OR ABETTING UNFAIR PRACTICES.

It shall be an unfair or discriminatory practice for any person to:

(A) Intentionally aid, abet, compel or coerce another person to engage in any of the practices declared unfair or discriminatory by this chapter; or

(B) Discriminate against another person in any of the rights protected against discrimination by this chapter because such person has lawfully opposed any practice forbidden under this chapter; obeys the provisions of this chapter; or has filed a complaint, testified or assisted in any proceeding under this chapter. An employer, employment agency or their employees or servants may offer employment or advertise for employment to only a person with disability, when other applicants have available to them other employment compatible with their ability which would not be available to a person with a disability because of their disability. Any such employment or offer of employment shall not discriminate among the disabled on the basis of race, color, creed, sex or national origin.

(2013 Code, § 16-24) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.039 UNFAIR CREDIT PRACTICES.

(A) It shall be an unfair or discriminatory practice for any:

(1) Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability or familial status;

(2) Person authorized or licensed to do business in this state pursuant to I.C.A. Ch. 524, 533, 534, 536 or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, physical disability or familial status; and/or

(3) Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited hereby.

(B) The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter. (2013 Code, § 16-25) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.040 SEX OR AGE PROVISIONS INAPPLICABLE TO RETIREMENT PLANS.

(A) The provisions of this chapter relating to discrimination because of sex or age shall not be construed to apply to any retirement plan or benefit system of any employer unless such plan or system is a mere subterfuge adopted for the purpose of evading the provisions of this chapter. However, a retirement plan or benefit system shall not require the involuntary retirement of a person under the age of 70 because of that person's age. This division (A) does not prohibit the involuntary retirement of a person who has attained the age of 65 and has for the two prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, non-forfeitable annual retirement benefit from a pension, profit-sharing savings or deferred compensation plan of the employer which equals \$27,000. This retirement benefit test may be adjusted according to the regulations prescribed by the United States Secretary of Labor, pursuant to Pub. Law No. 95-256, § 3.

(B) A health insurance program provided by an employer may exclude coverage of abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion.

(C) An employee welfare plan may provide life, disability or health insurance benefits that vary by age based on actuarial differences if the employer contributes equally for all the participating employees or may provide for employer contributions differing by age if the benefits for all the participating employees do not vary by age. (2013 Code, § 16-26) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

§ 94.041 RETALIATION.

It shall be unfair or discriminatory practice for any person to discharge, harass, penalize or otherwise retaliate against an individual because of that individual's attempts to secure compliance with this chapter of the remedies provided herein. It shall be an unfair or discriminatory practice for any person to discharge, harass, penalize or

otherwise retaliate with respect to employment, housing, public accommodations or financial practices against any individual because of that individual's association with persons of a particular race, religion, creed, national origin, marital status or sex. (2013 Code, § 16-27) (Ord. 14175, passed 2-13-1984) Penalty, see § 10.999

ENFORCEMENT

§ 94.055 CHARGE OF DISCRIMINATORY PRACTICE.

(A) Any person claiming to be aggrieved by a discriminatory or unfair practice within the city may, by himself or herself or his or her attorney, make, sign and file a verified written charge of discriminatory practice. The Human Rights Commission, a member of the Commission, the City Attorney, the State Civil Rights Commission, any place of public accommodation, employer, labor organization or other person who has any employees or members who refuse or threaten to refuse to comply with the provisions of this chapter may in like manner make, sign and file such charge.

(B) A verified copy of a complaint filed with the state's Civil Rights Commission, as provided by state law, shall be a sufficient charge for the purpose of this subchapter, if it alleges either in the text thereof or in accompanying statements that the alleged discriminatory practices occurred within the city.

(C) Charges may be filed with the Commission Chairperson, the Director or the Secretary of the Commission.

(D) Any complaint filed under this chapter shall be filed within 180 days after the most recent act constituting the alleged discriminatory or unfair practice. (2013 Code, § 16-28) (Ord. 14175, passed 2-13-1984)

§ 94.056 INVESTIGATING COMMITTEE TO DETERMINE PROBABLE CAUSE.

(A) Within five days after the filing of a charge under this subchapter, the Chairperson of the Human Rights Commission or, in his or her absence or failure to act, the Vice-Chairperson or other member designated by the Commission shall designate an investigating committee of three, composed of one Commissioner and two other qualified persons, who may be from the Commission staff. The vote of the majority of the investigating committee shall determine all questions coming within its function.

(B) The investigating committee shall first determine whether probable cause exists to believe that the person charged in the complaint has committed an unfair or discriminatory practice within the meaning of this chapter. It shall take the sworn testimony of the complainant and such other evidence as it deems relevant, and the Chairperson of the investigating committee shall have authority to administer the oath to witnesses.

(2013 Code, § 16-29) (Ord. 14175, passed 2-13-1984)

§ 94.057 PROCEDURE WHEN COMMITTEE FINDS NO PROBABLE CAUSE.

(A) If the investigating committee shall find no probable cause to believe that the person charged has committed an unfair or discriminatory practice, it shall report the finding to the Human Rights Commission and shall notify the complainant in writing by registered or certified mail.

(B) If the complainant fails to object to such findings within ten days after delivery of such written notice, the Commission shall close the case. The Secretary of the Commission shall report such fact to the state's Civil Rights Commission.

(C) If the complainant objects in writing to such findings within ten days after delivery of such written notice, the Commission shall hear his or her evidence in an executive session. If the Commission finds no probable cause to believe that the person charged has committed an unfair or discriminatory practice, it shall declare the case closed. If the Commission finds probable cause to exist, it shall take further proceedings as are provided.

(2013 Code, § 16-30) (Ord. 14175, passed 2-13-1984)

§ 94.058 PROCEDURE UPON FINDING OF PROBABLE CAUSE.

(A) If the investigating committee shall find probable cause to believe that the person charged has committed an unfair or discriminatory practice, it shall report the finding to the Human Rights Commission.

(B) If the Commission shall find, on the report of the investigating committee or on its own investigation, probable cause to believe that the person charged has committed an unfair or discriminatory practice as defined by this chapter, it shall direct an appropriate person to attempt to conciliate the matter, and it shall issue and cause to be served upon such person charged a notice stating the charges against such person and requesting the cooperation of the person charged in conciliation. Service of the notice may be by registered or certified mail or by any means provided for the service of original notices in civil actions.

(C) The Commission shall notify the state's Civil Rights Commission whenever a finding of probable cause or no probable cause has been made with respect to any case within its jurisdiction or whenever such case is otherwise closed.

(D) Whenever this chapter requires the Commission or its Secretary to notify the state's Civil Rights Commission of any matter, it shall be the duty of the Secretary of the Commission to transmit such notice or information in writing within five days after the event giving rise to the duty to give notice or information.

(E) All filing on charges, complaints or hearings may be filed and held as provided by the state's Civil Rights Act of 1965, as amended, I.C.A. Ch. 216.

(2013 Code, § 16-31) (Ord. 14175, passed 2-13-1984)

§ 94.059 CONCILIATION PROCEEDINGS.

(A) If the person directed to conciliate under provisions of this chapter succeeds in conciliation, the person shall report to the Human Rights Commission and shall submit a proposed written conciliation agreement. The conciliation agreement shall be effective only if approved by the person charged and by the Commission. The complainant shall have an opportunity to be heard as to the terms of the conciliation agreement, but the Commission may act without his or her approval.

(B) If the Commission accepts the conciliation agreement, it shall close the case, subject to whatever continuing supervision of the charged party is provided in the agreement, and shall communicate the terms of the agreement to the state's Civil Rights Commission.

(C) If the Commission rejects the conciliation agreement, it may either direct that further attempts at conciliation be made or it may file its complaint of the discriminatory practice charged and proceed as provided. It shall notify the state's Civil Rights Commission of the rejection of the proposed agreement and of the action taken. (2013 Code, § 16-32) (Ord. 14175, passed 2-13-1984)

§ 94.060 PROCEEDINGS UPON FAILURE TO CONCILIATE.

If, after attempts to conciliate as provided in this subchapter, the person directed to conciliate shall find that the person is unable to conciliate the matter, the person shall report the finding in writing to the Human Rights Commission. If the Commission determines the charge to be well founded, it may then file its complaint of the discriminatory practice charged. If the Commission determines the charge not to be well founded, it shall declare the case closed and shall so notify the parties. In either event, the Commission or its Director shall notify the state's Civil Rights Commission of the failure of conciliation efforts and of the action taken. (2013 Code, § 16-33) (Ord. 14175, passed 2-13-1984)

§ 94.061 PUBLIC HEARING.

(A) Upon filing the complaint as provided in this subchapter, the Human Rights Commission shall issue and cause to be served on the person charged a notice, containing a copy of the complaint and stating the time and place of hearing on the complaint. The hearing shall be held not less than ten days after the issuance of the notice, in a building open to the public in the city. The Commission may adjourn the hearing from time to time.

(B) The person charged shall have the right to file a written answer to the complaint, to appear in person or by attorney at the hearing, to testify, to call witnesses in his or her behalf and to cross-examine any witnesses who appear.

(C) The Commission shall have the power to reasonably and fairly amend the complaint, and the party charged shall have the power to reasonably and fairly amend his or her answer at any time before a final order is entered in the case.

(D) The City Attorney or an attorney designated by him or her shall conduct the case on behalf of the Commission. If the City Attorney is unable to conduct the case

because of conflict of interest or otherwise, the City Council may appoint a special attorney to conduct the case on behalf of the Commission. The complainant may introduce further evidence to support the claims alleged in his or her charge, either in person or by attorney. No member of the investigating committee shall participate in the deliberations of the Commission on the case, except as a witness.

(E) If the person charged shall fail to file an answer to the complaint or shall fail to appear in person or by attorney at the hearing, the Commission shall proceed to consider the testimony offered and shall base its decision thereon.

(F) The evidence shall be taken under oath and the Commission Chairperson, or other member of the Commission, acting as presiding officer in the conduct of such public hearing is authorized to administer the oath to witnesses. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity, but the rights of cross-examination shall be preserved.

(2013 Code, § 16-34) (Ord. 14175, passed 2-13-1984)

§ 94.062 ADJUDICATION AFTER HEARING.

(A) If, upon the preponderance of the testimony taken, the Human Rights Commission shall be of the opinion that any person charged in the complaint filed under this subchapter has engaged in or is engaging in the unfair or discriminatory practice complained of, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair or discriminatory practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay; the referring of applicants for employment by any respondent employment agency; the admittance or restoration to membership by any respondent labor organization; the admission to or continuation in enrollment in an apprenticeship program, on-the-job training program; the posting of notices; the reinstatement of any offer to sell, rent or lease property; the placing of the complainant on a waiting list as of the date of the unfair or discriminatory practice complained of; and to show property being offered for sale, rental or lease, as is required to remedy the unfair or discriminatory practice complained of.

(B) If, on the preponderance of the testimony taken, the Commission shall find that the person charged in the complaint has not engaged in the unfair or discriminatory practice complained of, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant and on the party charged an order dismissing the complaint.

(2013 Code, § 16-35) (Ord. 14175, passed 2-13-1984)

§ 94.063 JUDICIAL REVIEW.

(A) Any complainant or respondent claiming to be aggrieved by a final order of the Human Rights Commission made under this subchapter, including a refusal to issue an order, may obtain judicial review thereof, and the Commission may obtain an order

of court for the enforcement of Commission orders in a proceeding as provided in this section.

(B) An enforcement proceeding brought by the Commission shall be brought in the District Court in the county in which the alleged discriminatory or unfair practice which is the subject of the Commission's order was committed, or the county in which any respondent required in the order to cease or desist from a discriminatory or unfair practice or to take other affirmative action resides or transacts business.

(C) Such an enforcement proceeding shall be initiated by the filing of a petition in such Court and the service of a copy thereof upon the respondent. Thereupon, the Commission shall file with the Court a transcript of the record of the hearing before it. The Court shall have the power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript an order enforcing, modifying and enforcing as so modified, or setting aside the order of the Commission, in whole or in part.

(D) An objection that has not been urged before the Commission shall not be considered by the Court in an enforcement proceeding, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(E) If no proceeding to obtain judicial review is instituted within 30 days from the service of an order of the Commission under this section, the Commission may obtain an order of the Court for the enforcement of such order upon showing that respondent is subject to the jurisdiction of the Commission and resides or transacts business within the county in which the petition for enforcement is brought.

(F) An aggrieved party of record may obtain judicial review by filing a petition for judicial review in county's District Court, within 30 days after the Commission has issued or refused to issue a final order.

(G) (1) The petition shall name the Commission as a respondent and shall contain a concise statement of the following:

(a) The nature of the Commission action that is the subject of the petition;

(b) The particular action appealed from;

(c) The grounds on which relief is sought; and

(d) The relief sought.

(2) Service of the petition shall be made as required in I.C.A. § 17A.19.

(H) Where a party files a petition for judicial review, the Commission shall file with the Court a transcript of the record of the hearing before it.

(I) The court shall not itself hear further evidence with respect to issues of fact; however, the Court may remand the case to the Commission for the taking of further evidence upon application by any party, a showing of materiality and that there was good cause for failing to present such evidence before the Commission in the original proceeding. The Commission may modify its findings and decision by reason of additional evidence and shall file that evidence and any modifications, new findings or decision with the court and mail copies to all parties.

(J) The court may affirm the Commission's action or remand to the Commission for further proceedings. The court shall reverse, modify or grant any other appropriate relief if substantial rights of the petitioner have been prejudiced because the Commission action is:

- (1) In violation of constitutional, or statutory law, or the provisions of this chapter;
- (2) In excess of the Commission's authority;
- (3) In violation of any Commission rule;
- (4) Unsupported by substantial evidence;
- (5) Unreasonable, arbitrary or capricious or an abuse of discretion; or
- (6) Affected by any other error of law.
- (K) Appeal from the District Court may be taken as in other civil cases, although the appeal may be taken regardless of the amount involved.
(2013 Code, § 16-36) (Ord. 14175, passed 2-13-1984)

§ 94.064 ONE HUNDRED TWENTY DAY ADMINISTRATIVE RELIEF.

(A) A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the Human Rights Commission in accordance with this chapter. A complainant, after the proper filing of a complaint with the Commission, may subsequently commence an action for relief in the District Court if all of the following conditions have been satisfied:

- (1) The complainant has timely filed the complaint with the Commission as provided in this chapter; and
- (2) The complaint has been on file with the Commission for at least 120 days and the Commission has issued a release to the complainant pursuant to division (B) below.

(B) Upon a request by the complainant, and after the expiration of 120 days from the timely filing of a complaint with the Commission, the Commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the District Court. A release under this division (B) shall not be issued if a finding of no probable cause has been made on the complaint or a conciliation agreement has been executed or the Commission has served notice of hearing upon the respondent pursuant to this chapter or the complaint is closed as an administrative closure and two years have elapsed since the issuance date of the closure.

(C) An action authorized under this section is barred unless commenced within 90 days after issuance by the Commission of a release under division (B) above or within one year after the filing of the complaint, whichever occurs first. If a complainant obtains a release from the Commission under division (B) above, the Commission shall be barred from further action on that complaint.
(2013 Code, § 16-37) (Ord. 14175, passed 2-13-1984)

CHAPTER 95: PUBLIC NUISANCES

Section

- 95.001 Definition
- 95.002 Nuisances enumerated

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- 95.005 Right of entry for inspection
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§ 95.001 DEFINITION.

A **NUISANCE** is defined as whatever is injurious to health, indecent or unreasonably offensive to the sense, or an obstruction to the free use of property, so as essentially to interfere unreasonably with the comfortable enjoyment of life or property. (2013 Code, § 21-61) (Ord. 42, passed 8-14-1950; Ord. 12447, passed 4-11-1974; Ord. 14169, passed 11-14-1983; Ord. 14959, passed 3-13-2017)

§ 95.002 NUISANCES ENUMERATED.

(A) *Offensive smells.* The 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;

(B) *Filth or noisome substance.* The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others;

(C) *Impeding passage of navigable river.* The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water;

(D) *Water pollution.* The 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;

(E) *Blocking public or private ways.* The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

(F) *Houses of ill fame.* A house kept for the purpose of prostitution and lewdness, gambling houses, places resorted to by persons participating in criminal gang activity prohibited by I.C.A. Ch. 723A, or places resorted to by persons using controlled substances, as defined in I.C.A. § 124.101, sub. 5, 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;

(G) *Billboards.* Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of

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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;

(H) *Airport air space.* Any object or structure hereafter erected within 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;

(I) *Storing of flammable junk.* The 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 a city, unless in a building of fire-proof construction;

(J) *Air pollution.* The emission of dense smoke, noxious fumes or fly ash;

(K) *Weeds, brush.* Dense growth of all weeds, vines, brush or other vegetation so as to constitute a health, safety or fire hazard;

(L) *Cotton bearing or diseased trees.* Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees on private property; trees infected with Dutch elm disease or knowingly impacted or damaged by the emerald ash borer on private property;

(M) *Grass and weeds.* Allowing the growth of grass and weeds in excess of ten inches in height on a parcel or the adjacent public terrace, street shoulder or street-side ditches. The following exceptions apply:

(1) Land in an A-1 Agricultural Reserve District may have grass exceeding ten inches in height except within 100 feet of any parcel of real property possessed by another or on any portion of the property within 100 feet of a street owned or controlled by the city;

(2) Parcels which have no occupied structure may have grass exceeding ten inches in height except within 100 feet of any parcel of real property possessed by another or on any portion of the property within 100 feet of a street owned or controlled by the city;

(3) Recognized growing of agricultural products or the city flood control system;

(4) Woody perennials, purposefully planted, shall be permitted if they are planted and maintained in compliance with this code;

(5) Prairie grass areas, wild flower planting areas, natural reserve and preserve areas, urban wood lots, wildlife refuge and conservation areas, wetlands and natural water ways, all as recognized and identified by a governmental agency or a respected private conservation organization; and

(6) Publicly-owned open spaces, no mow meadows, and commercial developments maintaining prairie and pollinator habitat.

(N) *Snow and ice accumulations.* Snow and ice accumulations on sidewalks not removed within 24 hours after the precipitation has stopped;

(O) *Containers.* Refrigerators and freezers which are not stored under a roofed enclosure and which have doors that latched, lock or otherwise secure the door in a closed position;

(P) *Water service deficiency.* Any break or leak in the water service link between the city water main and any house or other building, when the break or leak

results in the escape of such volume of water as to constitute a hazard to street, sidewalk or terrace construction or as to interfere with the normal use thereof;

(Q) *Stables*. The keeping or stabling of horses, mules or asses so as to cause obnoxious odors, noise, hazard, annoyances or danger because of failure of confinement;

(R) *Stagnant water*. The permitting of water to accumulate and stand until stagnant or upon any privately owned lot;

(S) *Junk, refuse, garbage*. The permitting of junk, refuse, garbage or filth to accumulate on any lot or parcel;

(T) *Graffiti*. All real property defaced by graffiti vandalism which is visible to public view;

(U) *Junk or abandoned vehicles*. The keeping or storing of a junk vehicle or salvage vehicle on public property or private property not in an enclosed area. A **JUNK OR SALVAGE VEHICLE** is defined as having one or more of the following characteristics:

(1) Unlicensed: any vehicle not licensed for the current year as provided by law;

(2) Broken glass: any vehicle or part of a vehicle with a broken windshield or any other broken glass;

(3) Broken or loose parts: any vehicle or part of a vehicle with a broken or loose fender, door, bumper, hood, wheel, steering wheel, trunk top or tailpipe;

(4) Missing engine or wheels: any vehicle which is lacking an engine or one or more wheels or other structural parts which renders such vehicle totally inoperable;

(5) Habitat for animals or insects: any vehicle or part of a vehicle which has become a habitat for rats, mice or snakes or any other vermin or insects;

(6) Defective or obsolete condition: any vehicle or part of a vehicle which, because of its defective or obsolete condition, constitutes a threat to the public health and safety; and

(7) Inoperable condition: any vehicle that is not capable of moving in both forward and reverse gears.

(V) *Certain stopped or parked vehicles*. Vehicles parked in a street, alley or highway for more than 24 consecutive hours, or found standing, parked or stopped in front of a theater, auditorium or hotel, on a sidewalk, in front of a public or private driveway or on the roadway side of any vehicle stopped or parked at the edge or curb of a street. This shall not apply to the following situations:

(1) A vehicle owned by a person serving in the United States armed services; and

(2) Motor vehicle junkyards that are duly licensed under provisions of this code or other city ordinances.

(W) *Dangerous or unsafe building or structure*. A **DANGEROUS OR UNSAFE BUILDING OR STRUCTURE** shall mean any structure or building meeting any or all of the following conditions or defects provided that such conditions or defect exist to the extent that the life, health, property or safety of the public or its occupants are endangered whenever:

(1) Any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property;

(2) Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(3) The building or structure or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundations; or any other cause is likely to partially or completely collapse;

(4) For any reason the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;

(5) The exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(6) The building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for vagrants, criminals or immoral persons or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts;

(7) A building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;

(8) Any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections or heating apparatus or other cause is determined by the Fire Marshal to be a fire hazard; and/or

(9) Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(2013 Code, § 21-62) (Ord. 14959, passed 3-13-2017)

§ 95.003 OTHER CONDITIONS REGULATED.

The following actions are required and may also be abated in the manner provided in this chapter:

(A) The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street (see § 156.025 of this code of ordinances);

(B) The numbering of buildings (see §§ 151.070 through 151.079 of this code of ordinances);

(C) The repair or replacement of broken and defective sidewalks (see § 57.043 of this code of ordinances);

(D) The connection to public drainage systems from abutting property when necessary for public health or safety as set out in I.C.A. § 364.12; and

(E) The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property as set out in I.C.A. § 364.12

(2013 Code, § 21-63) (Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.004 NUISANCES PROHIBITED; AUTHORITY TO ABATE.

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.

(2013 Code, § 21-64) (Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)
Penalty, see § 95.999

§ 95.005 RIGHT OF ENTRY FOR INSPECTION.

(A) *Right of entry and administrative search warrants.* Whenever necessary to make an inspection to enforce any ordinance or whenever there is reasonable cause to believe there exists an ordinance violation in any building or upon any premises or real estate within the jurisdiction of the city, a city official, upon presentation of proper credentials, may enter the building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the official by this code of ordinances. Except in emergency situations or when consent of the owner and/or occupant to the inspection has otherwise been obtained, the city official shall give the owner and/or occupant, if they can be located after reasonable effort, 24-hours' written notice of the official's intention to inspect.

(B) *Warrants.* If consent to enter upon or inspect any building, structure or property is withheld by any person having the lawful right to exclude, the city official having the duty to enter upon or conduct the inspection may apply to the state's District Court in and for the county, pursuant to I.C.A. § 808.14, 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, designee or employee.

(2013 Code, § 21-65) (Ord. 42, passed 8-14-1950; Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.006 NOTICE TO ABATE; CONTENTS; SERVICE.

(A) *Required.* Whenever a city official finds that a nuisance exists, such official shall cause to be served upon the property owner as shown by the records of the

County Auditor and any other party in possession of the property a written notice to abate the nuisance within a reasonable time after notice. If a junk or abandoned vehicle is part of the nuisance to be abated, the registered owner of the vehicle must also be notified.

(2013 Code, § 21-66)

(B) *Contents of notice to abate.* The notice to abate served under this subchapter shall contain the following:

- (1) A description of what constitutes the nuisance;
- (2) The location of the nuisance;
- (3) A statement of the necessary act to abate the nuisance;
- (4) A stated reasonable time within which to complete the abatement;

and

(5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the period prescribed for the abatement, the city will abate the nuisance and assess the costs against the owner of the property.

(2013 Code, § 21-67)

(C) *Service of notice to abate.*

- (1) The notice to abate shall be served either by:
 - (a) Personal delivery;
 - (b) Sending a copy of the notice by certified United States mail;

or

(c) Posting the notice in a conspicuous place upon the premises where the nuisance exists.

(2) Service of the notice by personal delivery may be completed by any city official.

(2013 Code, § 21-68)

(Ord. 42, passed 8-14-1950; Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.007 REQUEST FOR HEARING.

(A) (1) Any person served with a notice to abate a nuisance shall be entitled to a hearing before the City Administrator as to whether a nuisance exists.

(2) A request for such hearing must be made in writing and delivered to the City Administrator within the time stated in the notice for the abatement of the nuisance.

(3) If such request is not made within the time provided in this section, it will be conclusively presumed that a nuisance exists and the nuisance shall be abated as ordered.

(B) If the City Administrator finds that a nuisance exists, the abatement of the nuisance shall still occur with the discretion of the City Administrator as to whether additional time for abatement shall be allowed.

(2013 Code, § 21-69) (Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.008 ABATEMENT IN EMERGENCY.

(A) If it is determined that an emergency exists because of the continuing maintenance of a nuisance, the city may perform any action which would be required under this subchapter without prior notice.

(B) A determination may be made as to whether a nuisance exists based on the following criteria:

- (1) Inability to contact the property owner by normal efforts;
- (2) The seriousness of the violation due to health hazards or physical hazards to a private individual or to the public as determined by a city official; and
- (3) Frequency of violations of a property owner or a tenant when the property owner or a tenant has received more than two nuisance violation notifications within one calendar year. This determination is in effect for one calendar year beginning on the date of the most recent nuisance violation notification.

(2013 Code, § 21-70) (Ord. 42, passed 8-14-1950; Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.009 ABATEMENT BY THE CITY; COSTS.

(A) *General.*

(1) If the person notified to abate a nuisance neglects or fails to abate as directed, the city may perform the required action to abate, keeping an accurate account of the expense incurred.

(2) The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the city.

(2013 Code, § 21-71)

(B) *Collection of costs of abatement.* The City Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate a nuisance under this chapter. If the amount shown on the statement has not been paid within 30 days, the costs of the abatement shall be certified to the County Treasurer, and shall then be collected with and in the same manner as general property taxes pursuant to I.C.A. Ch. 384.

(2013 Code, § 21-72)

(Ord. 42, passed 8-14-1950; Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.010 NUISANCE VEHICLES; REMOVAL, STORAGE, REDEMPTION OR DISPOSAL.

When a vehicle on public or private property is found to be a nuisance, the vehicle may be removed and stored upon the premises secured by the city for such storage purposes. The vehicle shall remain so stored upon said property for a period of 14 days. At the end of such time, the vehicle shall be disposed of by the city unless

previously claimed by the owner. The city shall charge a reasonable fee for the handling and storage of the vehicle to an owner claiming a vehicle.

(2013 Code, § 21-74) (Ord. 12447, passed 4-11-1974; Ord. 14959, passed 3-13-2017)

§ 95.999 PENALTY.

(A) In lieu of the foregoing abatement procedures, the city may elect to treat an unabated nuisance as a violation of this chapter, punishable as provided in § 10.999(B) of this code of ordinances.

(2013 Code, § 21-73)

(B) In addition, the creation or maintenance of a nuisance is a municipal infraction, as defined by § 10.999(B) of this chapter, and is punishable by a civil penalty of not more than \$750 for the first offense and not to exceed \$1,000 for each repeat offense.

(2013 Code, § 21-64)

(Ord. 12447, passed 4-11-1974; Ord. 13162, passed 6-27-1977; Ord. 14959, passed 3-13-2017)

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CHAPTER 110: LICENSES AND PERMITS

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- 110.001 Review and revocation for all licenses and permits issued by the city
- 110.002 License required to carry on business; exceptions
- 110.003 Appeal of license or permit denial
- 110.004 Licenses not assignable
- 110.005 License issuance
- 110.006 Location of work restricted by licenses
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- 110.999 Penalty

§ 110.001 REVIEW AND REVOCATION PROCEDURE FOR ALL LICENSES AND PERMITS ISSUED BY THE CITY.

(A) *Application of section.* This section is applicable to all licenses or permits issued by the city, regardless of their nature or subject matter, unless provision is established for any such license review or revocation.

(B) *Review or revocation.* The city may, after following the established procedures in this section, review or revoke any license or permit previously issued by the city. A review may include imposing reasonable restrictions upon the holder of the permit or license.

(C) *Scheduling of hearing; notice to license or permit holder.* Any license or permit issued by the city may be reviewed by the City Council on its own motion. Whenever the Council votes to so review any such license or permit, it shall, at that time, set a time, date and place of the review and the holder of the license or permit shall be notified of this hearing by the City Clerk mailing, by ordinary mail, a notice of the hearing to the license or permit holder at the last known address therefor. The notice shall state that the City Council has voted to review the permit and that upon review the City Council has the authority pursuant to this section to revoke the license or permit or review the license or permit and impose such additional restrictions thereon as are reasonable or allowed by law and that the license or permit holder must then appear and offer any comments or defenses he or she has to the action of the Council. The Council shall afford the license or permit holder adequate time to offer his or her relevant proofs. In addition, the notice may recite a brief summary of the alleged facts, and all appropriate matters may be considered at the hearing, even though not known when the notice is prepared and mailed. This notice shall be mailed by the City Clerk to the last known address of the license or permit holder by ordinary mail, with sufficient postage attached thereto to guarantee delivery, all at least ten days prior to the hearing date.

(D) *Decision of Council concerning review.* Any decision of the City Council to revoke or to review and further restrict any license or permit shall be made only after a majority vote of the Council following the hearing. If additional restrictions are imposed, an amended permit shall be issued with these restrictions noted thereon and delivered to the permit or license holder either personally or by ordinary mail addressed to the last known address of the permit or license holder with sufficient postage attached thereto to guarantee delivery. These additional restrictions shall be effective upon receipt of the amended permit.

(E) *Application to existing permit and license holders.* This section applies to all holders of city permits and licenses, regardless of when issued.
(2013 Code, § 17-1) (Ord. 14159, passed 6-27-1983)

§ 110.002 LICENSE REQUIRED TO CARRY ON BUSINESS; EXCEPTIONS.

(A) No person shall within the city engage in, transact, carry on or do or cause to be done in public with a profit motivation, any vocation, trade, business, profession, exhibition, entertainment, game or act described in this chapter within the city without having paid the required license fee and without having first obtained a license.

(B) This chapter shall not apply to local service clubs or persons selling by wholesale or by the distribution of samples, or by pre-appointment, or to lecturers on scientific, historical or literary subjects, or to sales made by any person authorized by law to sell real or personal property, such as realtors and auctioneers.

(C) The City Council, taking into consideration the nature of the business or licensed activity and all other circumstances bearing on the business activity, shall fix the license fee by resolution so that all license fees shall be reasonable and uniform under like conditions.

(2013 Code, § 17-1.1) (Ord. 14733, passed 1-12-2004; Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 110.003 APPEAL OF LICENSE OR PERMIT DENIAL.

(A) This section is applicable to all city licenses or permits issued by a city officer or employee and not otherwise approved by the City Council, unless a different appeal provision is established by ordinance or other law for any such license or permit denied.

(B) Upon denial of a city license or permit issued by a city officer or employee, the applicant shall have seven calendar days to request a hearing on the denial before the City Council. The request, if made, shall be submitted in writing to the City Clerk. Upon timely receipt of the written request for a hearing, such hearing shall be scheduled for the next following City Council meeting. At such hearing, the City Council may reverse or affirm the denial of the license or permit.

(2013 Code, § 17-1.2) (Ord. 29, passed 8-14-1950; Ord. 14609, passed 12-30-1998)

§ 110.004 LICENSES NOT ASSIGNABLE.

No license provided for in this chapter shall be assignable or transferable, except with the consent of the Mayor.

(2013 Code, § 17-2) (Ord. 29, passed 8-14-1950)

§ 110.005 LICENSE ISSUANCE.

Unless otherwise provided, any person desiring a license from the city for any of the purposes referred to in this chapter shall make application therefore to the City Clerk on a blank furnished for that purpose and, upon payment of the license fee together with a fee of \$1, the City Clerk shall issue to such person the proper license. The Mayor may revoke the license where, in his or her judgment, the proposed exhibition, amusement or entertainment will be obscene under state law.

(2013 Code, § 17-3) (Ord. 29, passed 8-14-1950)

§ 110.006 LOCATION OF WORK RESTRICTED BY LICENSES.

All licenses issued in accordance with the provisions of this chapter shall specify the particular place in the city where the business, entertainment or affair thereby licensed is to be performed or carried on, to which location the licensee must confine himself or herself under penalty of forfeiture of his or her license unless otherwise permitted in writing by the Mayor. However, this section shall not apply to peddlers, plumbers, excavators, scavengers, billposters, auctioneers with a general license, or

any other licensee whose duties require him or her to go from place to place within the city in pursuance of his or her work and duties under his or her license.
(2013 Code, § 17-4)

§ 110.007 CONTENTS OF LICENSES.

Each license issued in accordance with the provisions of this chapter shall be numbered consecutively, shall show the date of issuance thereof, and shall specify the person to whom issued, the purpose for which issued, and shall describe the place where the business is to be carried on, the time of its expiration, the amount paid for the license and shall be signed by the Mayor.
(2013 Code, § 17-5)

§ 110.999 PENALTY.

Any person violating any of the sections of this chapter or proceeding in a manner different from or contrary to the mode and procedure stated in this chapter or failing or refusing to procure a license when required to do so by the provisions of this chapter or to do any of the acts for which a license is required in this chapter without such license shall be punished in accordance with § 10.999(A) of this code of ordinances. The violation of any of the provisions of this chapter on separate and distinct days shall each be considered a separate and distinct offense. The violation by the licensee or his or her employees of any of the provisions of this chapter may be sufficient cause upon conviction for revocation of the license by the Mayor or Council. The penalties provided in this section are in addition to any fees, charges, forfeitures or liabilities otherwise imposed.
(2013 Code, § 17-6)

CHAPTER 111: AIRPORTS AND AIRCRAFT

Section

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MUNICIPAL AIRPORT

§ 111.001 LIMITATIONS ON USE.

Only aircraft and airpersons licensed by the federal aviation agency and flight students under authorized instruction shall operate on or over the Municipal Airport; provided, however, that this restriction shall not apply to public aircraft of the Federal Government or a state, territory, possession or a political subdivision thereof or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.
(2013 Code, § 4-16) (Ord. 10596, passed 5-27-1964)

§ 111.002 CONFORMITY WITH FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS.

No person shall navigate any aircraft over, land upon or fly the same from or service, maintain or repair any aircraft upon the Municipal Airport, or conduct any aircraft operations on or from the airport otherwise than in conformity with Title 14, Ch. 1, of the Federal Aviation Administration regulations, or in conformity with the laws of the state or the rules and regulations as provided in this chapter.
(2013 Code, § 4-17) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.003 CIVIL AIR REGULATIONS ADOPTED.

Title 14, Ch. 1, of the Federal Aviation Administration regulations are hereby adopted by reference and made a part of these rules.
(2013 Code, § 4-18)

§ 111.004 PERMIT OR CONTRACT; REQUIRED FOR USE OF AIRPORT.

(A) (1) *General use.* No person shall use the Municipal Airport as a base or terminal for the carrying on of commercial aviation, the carrying of passengers, freight, express, mail or for stunt flying, the rental of cars, the sale of insurance or any other commercial or private purpose without first securing a permit or a contract therefor and paying fees and charges prescribed by the City Council for such privileges, use or services rendered.

(2) *Concessionaires.* No person, firm or corporation shall engage in the sale or dispensing of refreshments, gasoline, oil or any other commodity, or render any services for hire or otherwise within the confines of the Municipal Airport without first having secured a permit or contract therefor and paid, or made satisfactory arrangements to pay, such fees or other sums of money as may be fixed and determined by the Council for such privilege or concessions.
(2013 Code, § 4-19)

(B) (1) The City Council shall establish reasonable standards of qualifications, which must be met by any applicant for a permit, concession license or contract to conduct a business or operation on the airport.

(2) The Council shall negotiate a schedule of fees for all permits and qualifications provided for under division (A) above.
(2013 Code, § 4-20)
(Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.005 PUBLIC USE; RESTRICTIONS; LIABILITY FOR DAMAGE.

The Municipal Airport shall be for the use and benefit of the public and will be open to all types, kinds and classes of aeronautical use without discrimination for landing and taking off; except that, aircraft equipped with tail skids shall not land or take off from the paved runway. All operators of aircraft shall be liable for any damages to the airport facilities or other aircraft thereon, or to any person or property of others

occasioned by the negligent operation thereof or for failure to observe flight rules of safety as required by this subchapter or as established by the Federal Aviation Administration.

(2013 Code, § 4-21) (Ord. 10596, passed 5-27-1964)

§ 111.006 LIABILITY INSURANCE.

Any person, persons or corporation dispensing gasoline, jet fuel or oil shall, for the benefit of the city, carry minimum insurance coverage pursuant to § 10.009 of this code of ordinances and shall keep on file with the Airport Manager and the City Clerk a certificate of such insurance in force.

(2013 Code, § 4-22) (Ord. 10596, passed 5-27-1964)

§ 111.007 LIGHTING FOR NIGHT FLYING.

Lighting of the airport for night flying shall be done in accordance with the requirements of the Federal Aviation Administration for airport lighting equipment.

(2013 Code, § 4-23) (Ord. 10596, passed 5-27-1964)

§ 111.008 DISPOSAL OF WRECKED AIRCRAFT.

The aircraft owner, his or her pilot or agent shall be responsible for the prompt disposal of wrecked aircraft and the parts thereof, to avoid interference with the field operations, unless directed to delay such action pending accident investigation.

(2013 Code, § 4-24) (Ord. 10596, passed 5-27-1964)

§ 111.009 FEDERAL AND STATE LAWS, RULES AND REGULATIONS.

The laws of the United States, or the state, all rules and regulations of the city as provided in this subchapter, or hereinafter to be enacted, shall be in force upon this field.

(2013 Code, § 4-25) (Ord. 10596, passed 5-27-1964)

§ 111.010 APPROVAL REQUIRED FOR ERECTION OF SIGNS, OTHER STRUCTURES.

No person shall be permitted to erect a sign or other structure on the Municipal Airport premises without first having secured the written approval of the Council.

(2013 Code, § 4-26) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

AIRPORT OPERATION

§ 111.025 AIRPORT MANAGEMENT.

(A) The Council may contract with a private fixed based operator (FBO) to manage and operate the airport facility.

(B) The duties and compensation shall be negotiated from time to time as set out in the contract.

(2013 Code, § 4-34)

§ 111.026 QUALIFICATIONS.

The FBO shall be thoroughly trained and experienced in airport management, have experience in aircraft servicing and methods of air control, knowledge of federal and state regulations controlling and regulating flight and operation of aircraft and the public relation responsibilities of the position.

(2013 Code, § 4-35) (Ord. 10556, passed 3-30-1964)

§ 111.027 ENFORCEMENT OF FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS.

The FBO shall enforce all provisions of this chapter and other ordinances and regulations of the city relating to the use and operation of the Municipal Airport and shall require and obtain compliance with federal regulations pertaining to aeronautics. He or she shall report to the cognizant agency of the federal government all violations of federal regulations respecting aircraft airworthiness, airpersons and flight of aircraft.

(2013 Code, § 4-42) (Ord. 10556, passed 3-30-1964; Ord. 10596, passed 5-27-1964)

§ 111.028 MAINTENANCE OF OFFICE; OTHER GENERAL DUTIES.

The FBO shall maintain his or her office in the administration building, keep the same and adjacent area clean and orderly, see that facilities are available to the flying public, pilots and others, coordinate the use of the administration building with lessees of the airport facilities and do and perform such other duties as are incident thereto.

(2013 Code, § 4-43) (Ord. 10556, passed 3-30-1964)

TRAFFIC RULES

§ 111.040 COMPLIANCE WITH CURRENT PATTERNS REQUIRED.

The direction of aerial traffic around the outside of the airport shall be to the left and in accordance with current traffic patterns on file in the Airport Manager's office. (2013 Code, § 4-52) (Ord. 10596, passed 5-27-1964)

§ 111.041 RIGHT-OF-WAY.

An aircraft in distress shall have the right-of-way over all other aircraft. All aircraft converging on the airport for landing shall observe the rules as are prescribed by the Federal Aviation Administration. (2013 Code, § 4-53) (Ord. 10596, passed 5-27-1964)

§ 111.042 MANEUVERING TO LAND.

When landing or maneuvering into position to land, it shall be the duty of the aircraft at the greater altitude to avoid the aircraft at the lower altitude, but this shall not excuse the pilots of either or both such aircraft from the exercise of due care and diligence. Airplanes, when approaching the runway for a landing, shall, if found expedient to continue flight, proceed up wind until the landing area has been crossed. (2013 Code, § 4-54) (Ord. 10596, passed 5-27-1964)

§ 111.043 TAKEOFF AND LANDING.

Airplanes shall land and take off at a safe distance from hangars and other buildings, obstacles, areas reserved for spectators and auto parking areas. Airplanes shall not take off over hangars, buildings, obstructions, auto parking areas or groups of spectators. Airplanes shall not land on or take off from taxi strips, aprons or airplane parking areas. Aircraft taking off shall fly beyond the controlled 2,000 feet at the end of the southeast end of the paved runway before making the turn for its continued flight and shall approach for landing at this end of the paved runway from beyond the controlled 2,000 feet. (2013 Code, § 4-55) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.044 TAXIING.

Aircraft, while taxiing out for a takeoff, shall use due caution to avoid any interference with planes landing or taking off. Upon landing on the airport, a pilot shall assure himself that there is no danger of collision with other aircraft taking off, landing or taxiing, before and while taxiing to the line or other part of the airport. All aircraft shall be taxied at a slow and reasonable speed, particularly in the vicinity of hangars and other buildings, and shall be brought to a full stop when in the vicinity of landing aircraft.

Unless a taxiing aircraft is equipped with adequate brakes, an attendant shall be at each wing when the aircraft is near passengers, fences, other airplanes, buildings or equipment. No airplanes shall be taxied into or out of hangars.

(2013 Code, § 4-56) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.045 UNAUTHORIZED REMOVAL OF AIRCRAFT FROM LANDING AREA OR HANGARS.

No person shall take any aircraft from the landing area or hangars or operate same in violation of the Federal Aviation Administration regulations.

(2013 Code, § 4-57) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.046 AUTHORITY OF AIRPORT MANAGER TO SUSPEND FLYING OPERATIONS.

The FBO shall have the authority to suspend flying operations on or from the airport of any part thereof when, in his or her opinion, the condition of the landing area or local meteorological conditions might make operations unsafe.

(2013 Code, § 4-58) (Ord. 10596, passed 5-27-1964)

§ 111.047 CLEARING OF RUNWAYS.

Aircraft shall leave the runways as soon as practicable after landing. Running up or clearing engines shall be done off the runways to be used. All pilots shall position their airplanes so that the slipstream during runup shall not cause turbulent air over runways and in order that they may at all times see incoming traffic. Instruction to students while the plane is not in motion or discharge of passengers shall be done off the runways. In the case of trouble in starting dead engines, the plane shall be moved off the runway immediately.

(2013 Code, § 4-59) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.048 NIGHT FLYING.

All aircraft operating during the hours of darkness shall display position lights as required by federal aviation regulations.

(2013 Code, § 4-60) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.049 SAFE CONDUCT OF PASSENGERS.

Passengers shall be safely conducted, by the operator or his or her authorized agent, from the nearest gate in the landing area fence to the plane, but not until

departing passengers have been so conducted from the plane to the nearest gate. Passengers shall not be loaded nor unloaded from aircraft while the engine is running unless they are conducted from or to such aircraft by the authorized agent of the aircraft operator. The plane shall not proceed until the pilot has received a proper signal from said agent.

(2013 Code, § 4-61) (Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.050 CONDITION OF PILOT AND CREW DURING TAKEOFF OR IN FLIGHT.

No pilot or other member of the crew of an aircraft during takeoff or in flight shall be in such condition as to be in violation of the Federal Aviation Administration regulations.

(2013 Code, § 4-62) (Ord. 10596, passed 5-27-1964)

AIRCRAFT OPERATION

§ 111.065 RUNNING ENGINES.

(A) *Use of wheel blocks required.* Blocks, equipped with ropes or other suitable means of pulling them, shall always be placed in front of the wheels before starting the engine or engines, unless airplane is provided with thoroughly adequate brakes.

(2013 Code, § 4-71)

(B) *Running engine in storage hangars.* Aircraft engines shall not be run in storage hangars, except in engine run-up room.

(2013 Code, § 4-72)

(C) *Fueling while engine running.* No aircraft shall be fueled while the engine is running.

(2013 Code, § 4-73)

(D) *Filling of fuel truck while engine running.* No gasoline fuel truck shall be filled while the truck engine is running.

(2013 Code, § 4-74)

(E) *Fueling inside hangar.* No aircraft shall be fueled inside any hangar or building.

(2013 Code, § 4-75)

(F) *Engine starting procedure.* In starting an aircraft engine the customary procedure shall be used by the person operating the starting device and the person at the engine controls. All challenges and signals between the former and the latter shall be clearly understood and so indicated by repetition before either takes action.

(2013 Code, § 4-76)

(G) *Starting and run-up restricted to designated places.* Aircraft shall be started and run-up only in the places designated for such purpose by the FBO.

(2013 Code, § 4-77)

(H) *Responsibility of airport personnel.* Persons attached to the airport shall observe extreme caution when in the vicinity of turning propellers and shall make it their duty to warn uninitiated persons of the danger of being struck.

(2013 Code, § 4-78)

(Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.066 INSTRUCTION FLYING AND TEST FLIGHTS.

(A) *Responsibility of persons instructing students.* All persons instructing student pilots in flying on the airport shall fully acquaint such students with the rules and regulations in effect on the airport and shall be responsible for the conduct of said students while under their instruction.

(2013 Code, § 4-86)

(B) *Number of persons on test flights limited; passengers as ballast prohibited.* The personnel engaging in test flights shall be limited in each case to the number necessary to properly perform the required test. At no time shall passengers be carried on such flights as ballast.

(2013 Code, § 4-87)

(C) *Acrobatics, training and flight-testing.* Acrobatic flying, student training and flight-testing shall be performed only as prescribed by the latest adopted flight and training manuals of the Federal Aviation Administration.

(2013 Code, § 4-88)

(Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.067 PARKING AND MOORING.

(A) *Designation of plane line and tie-down area.* The plane line shall be designated by the FBO and shall be interpreted as the tie-down area at the outer edge of the plane parking ramp.

(2013 Code, § 4-97)

(B) *Designations and observation of deadlines.* A deadline shall also be designated by the FBO, and no person, excepting a pilot or mechanic attached to the airport or employed by the owner of a plane, or an operator on said airport or an owner of such a plane, or such an operator, or duly authorized officers or officials charged with the duty of enforcing local, state or federal laws or regulations, shall cross the deadline or enter upon the flying field unless he or she is to participate in a flight. If such a person is to participate in a flight, he or she shall not cross the deadline until the plane in which he or she is to fly has come to a full stop and the pilot thereof has signaled that he or she is ready. Such person shall, upon alighting from the plane, leave the landing area by the shortest possible route. Operators of vehicles desiring to cross this deadline and enter the airfield shall not do so without receiving prior permission from the FBO or the control tower.

(2013 Code, § 4-98)

(C) *Spectators and visitors to observe deadlines.* Spectators and visitors, unless under guidance of the FBO or other person responsible to the FBO, shall remain behind the deadline as defined herein, or as may be from time to time changed to conform to changed conditions.

(2013 Code, § 4-99)

(Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

§ 111.068 FIRE REGULATIONS.

(A) *Persons using airport to exercise utmost care.* All persons using in any way the airport area of the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property.

(2013 Code, § 4-106)

(B) *Non-smoking areas designated.* No persons shall smoke in any hangar or any repair shop on the airport, except in the lounge area or office space.

(2013 Code, § 4-107)

(C) *Care of floors, use of volatile solvents.* Floors shall be kept clean and free from oil. The use of volatile inflammable solvents for cleaning floors is prohibited.

(2013 Code, § 4-108)

(D) *Receptacles for oily waste and the like.* Suitable metal receptacles with self-closing covers shall be provided for the storage of oily wastes, rags and other rubbish. The contents of these receptacles shall be removed daily.

(2013 Code, § 4-109)

(E) *Oil, paint and varnish containers.* All empty oil, paint and varnish cans, bottles or other containers shall be immediately removed from the premises.

(2013 Code, § 4-110)

(Ord. 10596, passed 5-27-1964) Penalty, see § 10.999

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

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GENERAL PROVISIONS

§ 112.001 REFERENCES TO STATE LAW.

The city has the ability to issue, suspend and revoke licenses and permits as permitted under I.C.A. Ch. 123. Where state law defines words and phrases used in this chapter, such definitions shall apply to their use in this chapter and are adopted by reference. Where “Administrator” is used in I.C.A. Ch. 123, for definitional purposes, shall mean the “City Council of the City of Marshalltown, Iowa”.
(2013 Code, § 5-1)

§ 112.002 MARSHALLTOWN MEMORIAL COLISEUM; SALE AND CONSUMPTION.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARITABLE EVENT. An activity sponsored by an organization or person whose purpose is to collect funds for a charitable cause.

NON-PROFIT EVENT. An activity sponsored by an organization or person whose receipts from the activity are not intended nor do they in fact exceed expenses. No person or organization shall sell or serve alcoholic beverages in the Marshalltown Memorial Coliseum unless the person or organization is sponsoring a **NON-PROFIT OR CHARITABLE EVENT**.

(B) All persons or organizations selling or serving alcoholic beverages at the Marshalltown Memorial Coliseum shall have the appropriate liquor license and shall complete all required application forms for use of the Marshalltown Memorial Coliseum.

(2013 Code, § 5-2) (Ord. 14449, passed 12-20-1993) Penalty, see § 112.999

§ 112.003 MINORS; SELLING OR FURNISHING.

(A) *Selling or furnishing to minors.* No person shall knowingly sell, give, supply or offer any alcoholic beverage, wine or beer to any person under the age of 21.

(2013 Code, § 5-101)

(B) *Minors prohibited on certain premises.*

(1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GUARDIAN. An individual who has been duly appointed as the guardian of a minor pursuant to Iowa Probate Code §§ 633.552 through 633.565 and any future amendments thereto.

MINOR. Any person who has not attained the lawful age for the purchase, consumption or possession of any alcoholic beverage, including beer, wine or liquor, under state laws.

(2) Except as provided in division (B)(4) below, it shall be unlawful for the holder of a license or permit issued pursuant to the state's Alcoholic Beverage Control Act, I.C.A. §§ 123.1 et seq., for premises where more than 50% of the business of the business conducted is the sale or dispensing of alcoholic beverages, and for every person employed with respect to such premises, to knowingly permit or fail to take reasonable measures to prevent entry into such premises of any and all minors. Either the Chief of Police or the City Administrator may request, upon ten days' notice, a verified statement from a certified public accountant which establishes that more than 50% of the licensee's or permittee's gross sales are from the sale of goods or services other than the sale of alcoholic beverages, wine or beer, which shall not include income from cover charges, entertainment fees, drink mixes, non-alcoholic beverages or any goods or services not sold directly on the licensee's or permittee's premises. In addition, any licensee or permittee may tender such a verified statement, at any time, so as to justify his or her lawful conduct of business. Failure to provide the verified statement as requested shall be considered a violation of this section, which may result in a revocation of all licensee permits issued by the city.

(3) Except as provided in division (B)(4) below, it shall be unlawful for a minor to go onto the premises described in division (B)(2) above.

(4) The provisions of divisions (B)(2) and (B)(3) above shall not apply when:

(a) The minor is an employee of the license or permit holder and performing scheduled duties or is performing contracted services with respect to such premises;

(b) The minor is accompanied by a parent, guardian or spouse who is not a minor;

(c) The minor is on the premises during a time that the license or permit holder has, after written notice to the Chief of Police or his or her designee, suspended the dispensing of alcoholic beverages on the premises or on a clearly delineated part of the premises operating under a differentiating trade name. It shall be

the duty of the license or permit holder allowing minors onto the licensed premises and all employees of the licensed premises to prevent minors from purchasing, possessing or consuming alcoholic beverages thereon. Police officers shall be immediately admitted to the premises at any time. Failure to fulfill the duties set forth in this division (B)(4)(c) shall be a violation of this section; or

(d) The licensee or permit holder has provided a separate room in which no alcoholic beverages may be served, dispensed, possessed or found. In such room minors may be allowed through an entrance that does not involve passage through any area where such alcoholic beverages are served, dispensed, possessed or found.

(2013 Code, § 5-102)

(C) *Special event exception.* Notwithstanding any provision of division (B) above, the licensee or permittee may apply for a special event exception from the Chief of Police and City Administrator that shall allow the holder to provide entertainment to persons under legal age, subject to the following.

(1) A licensee or permittee may qualify for a special event exception when an application is submitted to the Chief of Police or his or her designee at least seven business days prior to the proposed special event. Such application shall include the name and address of the licensed or permitted establishment, the type of event for which an exception is applied, the proposed date for the event and the time of the event.

(2) All alcoholic liquor, wine or beer shall be removed or stored so that it is not available for sale or consumption during the period of the special event.

(3) A special event exception shall be valid through the date of the special event or for the duration of the alcoholic liquor control license, wine or beer permit, whichever is first in time.

(4) Failure to comply with the terms of this special event exception shall result in the revocation or denial of such an exception application for one year.

(5) The licensee or permittee shall post a current exception certificate in a conspicuous place in the view of patrons of the licensed or permitted establishment.

(2013 Code, § 5-103)

(D) *Posting of notices prohibiting minors.* All license or permit holders shall post a conspicuous notice at all entrances notifying all those who enter that minors are prohibited.

(2013 Code, § 5-104)

(E) *Exceptions.* The provisions of divisions (B)(2) and (B)(3) above shall not apply to the holder of the license or permit at the Marshalltown Softball Complex and any event held outdoors where the premises are not enclosed by a structure, fence, tent or similar enclosure.

(2013 Code, § 5-105)

(Ord. 47, passed 8-14-1950; Ord. 10440, passed 7-11-1963; Ord. 14293, passed 7-10-1989; Ord. 14527, passed 3-11-1996; Ord. 14889, passed 9-26-2011) Penalty, see § 112.999

Statutory reference:

Supplying alcoholic beverage, wine or beer to person under legal age, see I.C.A. § 123.49(2)h

§ 112.004 ALCOHOL PROHIBITED IN CERTAIN COMMERCIAL ESTABLISHMENTS.

It is unlawful for any owner, manager, officer, agent, employee or person in charge of any commercial establishment within the city, to allow the possession of beer, wine or liquor, for on-site consumption, in connection with any show, performance or other presentation upon the premises, which in whole or in part, presents or depicts nudity or sexual conduct or any simulation thereof. As used in this section, **NUDITY** means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the darkened area surrounding the nipple.

(2013 Code, § 5-151) (Ord. 14799, passed 2-12-2007; Ord. 14889, passed 9-26-2011)
Penalty, see § 112.999

PERMITS GENERALLY

§ 112.015 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 the I.C.A. Ch. 123. All applications for new licenses or permits or renewal of licenses or permits must be filed in the City Clerk's office at least 30 days prior to the intended opening date or expiration date. In the event the application is filed less than 30 days prior to the intended opening date or expiration date, the license or permit may not be approved by the City Council prior to the date and the licensee will not be able to serve alcoholic beverages.

(2013 Code, § 5-26) (Ord. 47, passed 8-14-1950) Penalty, see § 112.999

Statutory reference:

Similar provisions, see I.C.A. § 123.122

§ 112.016 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 the I.A.C. Ch. 123, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

Penalty, see § 112.999

Statutory reference:

Similar provisions, see I.C.A. §§ 123.2, 123.39 and 123.50

§ 112.017 INVESTIGATION.

The City Council shall make, or cause to be made, a thorough investigation to determine the fitness of the applicant as required by I.A.C. Ch. 123 and the truth of the statements made in and accompanying the application. 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.
(2013 Code, §§ 5-26 and 5-34) (Ord. 47, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 123.30

§ 112.018 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 each application. Thereafter, the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for further action as is provided by law.
(2013 Code, § 5-34) (Ord. 47, passed 8-14-1950)

Statutory reference:

Similar provisions, see I.C.A. § 123.32(2)

§ 112.019 PERMIT REVOCATION.

The City Council may, in its discretion, suspend or revoke any permit issued under the terms of this chapter as provided by state law.
(2013 Code, § 5-42)

Statutory reference:

Effect of revocation, see I.C.A. § 123.40

Suspension or revocation of beer permit, see I.C.A. § 123.39

§ 112.020 DISTRIBUTION OF FUNDS.

All fees collected under this subchapter shall be retained by the city and allocated to its General Fund.
(2013 Code, § 5-44) (Ord. 47, passed 8-14-1950)

Statutory reference:

Distribution of funds, see I.C.A. § 123.143

§ 112.021 USE OF CERTAIN WORDS PROHIBITED ON PREMISES.

It shall be unlawful for the holder of any permit to exhibit or display or permit to be exhibited or displayed on the premises any sign or poster containing the words “bar”, “barroom”, “saloon” or words of like import.

(2013 Code, § 5-45) (Ord. 47, passed 8-14-1950; Ord. 10440, passed 7-11-1963)

Penalty, see § 112.999

Statutory reference:

Advertisement for alcoholic liquor or beer, see I.C.A. § 123.51

§ 112.022 CLOSING HOURS.

It shall be unlawful for any person to sell, dispense or deliver any alcoholic beverage, wine or beer to any person between the hours of 2:00 a.m. and 6:00 a.m. on any weekday. Holders of Sunday sales permit may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

(2013 Code, § 5-47) Penalty, see § 112.999

Statutory reference:

Hours when sale or dispensing illegal, see I.C.A. § 123.49(2)b

§ 112.023 CLASS B PERMIT FOR USE ON FAIRGROUNDS; ISSUANCE; TRANSFERABILITY.

(A) A Class B beer permit may be issued by the City Council for use by the holder of such permit on the fairgrounds of the Central Iowa Fair Association.

(2013 Code, § 5-51)

(B) The permit required by division (A) above shall not be used in any other location or place and shall not be transferred from one location to another.

(2013 Code, § 5-53)

(C) It shall be unlawful for any person to sell or dispense beer at the Central Iowa Fair Association grounds, except in compliance with this subchapter.

(2013 Code, § 5-54)

(Ord. 48, passed 8-14-1950) Penalty, see § 112.999

POLICE SERVICES

§ 112.035 PURPOSE.

(A) The control of large parties, gatherings or events on private property is necessary when such continued activity is determined to be a threat to the peace, health, safety or general welfare of the public.

(B) Police officers have been required to make repeated return calls to the location of a party, gathering or event in order to disperse uncooperative participants,

which constitutes a drain of manpower and resources, often depriving other areas of the city of necessary levels of police protection.

(C) All of these circumstances create a significant hazard to the safety of the police officers and to the public in general and constitutes a public nuisance.

(D) The consumption of alcohol and illegal drugs by minors is harmful to the health, safety and welfare of the community and imposing both criminal and financial liability on adults permitting such conduct is an effective means to prevent consumption of alcohol and illegal drugs by minors.

(2013 Code, § 5-125) (Ord. 14889, passed 9-26-2011)

§ 112.036 DEFINITIONS.

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

ALCOHOL. Ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

ALCOHOL BEVERAGE. Alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains 0.5% or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

CONTROLLED SUBSTANCES or ILLEGAL DRUGS. All narcotics or drugs, the possession which is illegal under the laws of the state, as defined under the Penal Code, Health and Safety Code and related statutes.

ENFORCEMENT SERVICES. The salaries and benefits of police officers or other code enforcement personnel for the amount of time actually spent in responding to, or in remaining at, the party, gathering or event and the administrative costs attributable to the incident; the actual cost of any medical treatment to injured police officers or other code enforcement personnel; and the cost of repairing any damaged city equipment or property; and the cost arising from the use of any damaged equipment in responding to or remaining at the party, gathering or event.

JUVENILE. Any person under 18 years of age.

GUARDIAN.

(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 the court.

MINOR. Any person under 21 years of age.

PARENT. A person who is a natural parent, adoptive parent or step-parent of another person.

PARTY, GATHERING or EVENT. A group of persons who have assembled or are assembling for a party, social occasion or social activity.

PERSON(S) RESPONSIBLE FOR THE EVENT. Includes, but is not limited to:

(1) The person(s) who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place;

(2) The person(s) in charge of the premises; or

(3) The person(s) who organized the event. If a person responsible for the event is a juvenile, then the parents or guardians of that juvenile will be jointly and severally liable for the costs incurred for enforcement services pursuant to this chapter.

SPECIAL SECURITY ASSIGNMENT. The assignment of police officers and services to a location of a party, gathering or event that violates the law. (2013 Code, § 5-126) (Ord. 14889, passed 9-26-2011)

§ 112.037 ENFORCEMENT SERVICES AT LARGE PARTIES, GATHERINGS OR EVENTS.

When a large party, gathering or event occurs on private property and any police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person(s) responsible for the event shall be liable jointly and severally for the cost of providing such enforcement services as may be necessary to control the threat to the public peace, health, safety or general welfare, including the actual cost of enforcement services provided during the response as a result of conduct violating this subchapter.

(2013 Code, § 5-127) (Ord. 14889, passed 9-26-2011)

§ 112.038 UNSUPERVISED CONSUMPTION OF ALCOHOL BY MINOR AT PRIVATE PROPERTY.

Except as permitted by state law, no minor shall consume in any public place or any place open to the public any alcoholic beverage and/or controlled substance, or consume at any place not open to the public any alcoholic beverage and/or controlled substance.

(2013 Code, § 5-128) (Ord. 14889, passed 9-26-2011) Penalty, see § 112.999

§ 112.039 SERVING ALCOHOL AND/OR CONTROLLED SUBSTANCES TO MINORS.

(A) Except as permitted by Iowa Code, no person shall permit, allow or host a party, gathering or event at his or her place of residence or other private property, place or premises under his or her control where three or more persons are present and alcoholic beverages and/or illegal drugs are being consumed by any minor.

(B) This section shall not apply to conduct involving the use of alcohol which occurs exclusively between a minor child and his or her parent or legal guardian.

(2013 Code, § 5-129) (Ord. 14889, passed 9-26-2011) Penalty, see § 112.999

§ 112.040 ENFORCEMENT SERVICES FEE.

(A) The enforcement services fee shall include the actual reasonable cost of providing personnel and equipment. Such fee is deemed to be supplementary to all other applicable fines and penalties, and the city may seek reimbursement for actual costs through any available legal remedies or procedures.

(B) The amount of such fee charged shall be deemed a debt owed to the city by the person or persons receiving such services and, if minors, their parents or guardians, recoverable in an action brought in the name of the city for recovery of such amount, plus court costs and including the city's reasonable attorney fees.
(2013 Code, § 5-130) (Ord. 14889, passed 9-26-2011)

§ 112.041 APPEALS.

Any individual aggrieved by the decision of the Chief of Police to assess any penalty under the provisions of this subchapter may request an administrative hearing before a hearing officer designated by the City Administrator by filing a written notice with the City Clerk's office within ten days of the violation notice.
(2013 Code, § 5-131) (Ord. 14889, passed 9-26-2011)

§ 112.042 RESERVATION OF LEGAL OPTIONS.

The city does not waive its right to seek reimbursement for actual costs of enforcement services through other legal remedies or procedures. The procedure provided for in this chapter is in addition to any other statute, ordinance or law, civil or criminal. This chapter in no way limits the statutory authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this subchapter.

(2013 Code, § 5-132) (Ord. 14889, passed 9-26-2011)

§ 112.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) A violation of § 112.038 of this chapter shall constitute a misdemeanor punishable as provided in § 10.999(A) of this code of ordinances.
(2013 Code, § 5-128)

(C) A violation of § 112.039 of this chapter shall constitute a misdemeanor punishable as provided in § 10.999(A) of this code of ordinances.
(2013 Code, § 5-129)
(Ord. 14889, passed 9-26-2011)

CHAPTER 113: AMUSEMENTS AND RECREATION

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- 113.002 Circuses or menageries
- 113.003 Shows or exhibitions
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Boxing, Wrestling and Martial Arts

- 113.020 Permit required
- 113.021 Prohibited unless promoter has permit
- 113.022 Application; permit issuance; conditions; police protection

GENERAL PROVISIONS

§ 113.001 AMUSEMENT PARKS.

(A) Every person operating or maintaining any place, building or grounds, commonly called “amusement parks”, wherein or whereon skating rinks, swimming pools and other similar or like amusements are offered or extended to the public may, in lieu of a separate license therefor, pay an annual license fee determined by Council resolution, payable in advance.

(B) The license provided in this section shall not extend to or include within the same place, buildings or grounds the license for any circus, show, exhibition, theatrical exhibitions, combination of shows or exhibitions, commonly called carnivals, which are made subject to a license by this subchapter.
(2013 Code, § 17-18) (Ord. 35, passed 8-14-1950)

§ 113.002 CIRCUSES OR MENAGERIES.

Council shall determine the license fee by resolution for circuses or menageries. Any sideshows operated independently of the main circus or menagerie by separate management shall also have a daily license fee.
(2013 Code, § 17-19) (Ord. 35, passed 8-14-1950)

§ 113.003 SHOWS OR EXHIBITIONS.

The license for shows or exhibitions of any kind under canvas, other than circuses, menageries or theatrical exhibitions shall be determined by Council resolution.
(2013 Code, § 17-20) (Ord. 35, passed 8-14-1950)

§ 113.004 THEATRICAL EXHIBITIONS.

The license for theatrical exhibitions of any kind in any tent, building or other place, not a regularly licensed theater or public auditorium shall be determined by Council resolution.

(2013 Code, § 17-21) (Ord. 35, passed 8-14-1950)

§ 113.005 THEATERS.

No person shall operate or maintain a theater in the city without first paying for and securing a license to do so.

(2013 Code, § 17-22) (Ord. 35, passed 8-14-1950) Penalty, see § 10.999

§ 113.006 CARNIVALS.

Any combination of shows or exhibitions under one management, commonly known as a “carnival”, may, in lieu of separate licenses for each show or exhibition, pay a daily fee as determined by Council.

(2013 Code, § 17-23) (Ord. 35, passed 8-14-1950)

BOXING, WRESTLING AND MARTIAL ARTS

§ 113.020 PERMIT REQUIRED.

It shall be unlawful for any person, corporation or legal entity, directly or indirectly, to stage, manage, promote or put on any professional wrestling, boxing, martial arts or combination thereof exhibition, contest or show, without first making application therefor and obtaining a permit, as provided in this subchapter.

(2013 Code, § 17-101) (Ord. 14580, passed 2-9-1998) Penalty, see § 10.999

§ 113.021 PROHIBITED UNLESS PROMOTER HAS PERMIT.

It shall be unlawful for any person to participate in any professional wrestling, boxing, martial arts or combination thereof contest, exhibition or show unless the promoter, manager or operator of the contest, exhibition or show shall have first received the permit provided for in this subchapter, and unless the person is at least 18 years of age.

(2013 Code, § 17-102) (Ord. 14580, passed 2-9-1998) Penalty, see § 10.999

§ 113.022 APPLICATION; PERMIT ISSUANCE; CONDITIONS; POLICE PROTECTION.

(A) Any person, corporation or legal entity desiring to promote, manage or stage any professional boxing, wrestling, martial arts or combination thereof match, contest or show shall first make application therefor to the Mayor or City Administrator for a permit and shall submit to the Mayor or City Administrator a written program of the proposed exhibition, contest or show, including the dates of birth of all match participants. If the Mayor or City Administrator is satisfied that the application is in good faith and the Mayor or City Administrator reasonably believes the proposed contest, show or exhibition lawful, the Mayor or City Administrator shall issue a written permit therefore, upon the payment of a permit fee and any police officer fees, as provided in this section, and subject to any conditions, terms and rules that the Mayor or City Administrator reasonably believes are necessary to protect the health, safety and welfare of all those involved and the city which the Mayor or City Administrator makes applicable thereto in writing.

(B) No permit under this subchapter shall be issued to any applicant whose proposed professional exhibition, contest or show contains any match participant who will be less than 18 years of age at the time of any such match participant's match or bout.

(C) It shall be unlawful for any permit holder to cause or permit any violation of any condition, term or rule, which the permit was made subject to by the Mayor or City Administrator, and any such violation shall render the permit immediately null and void.

(D) The permit fee for any professional wrestling, boxing, martial arts or combination thereof contest, exhibition or show shall be determined by Council.

(E) The Chief of Police may require the presence of any number of city police officers at any of these events and, if so, the fee for each officer shall be at the current rate established by the city for the services of off-duty police officers and shall be paid by the permit applicant prior to the issuance of the permit. All such professional exhibitions, contests or shows shall be under the supervision of a police officer assigned to such duty or by some other qualified person appointed for such purpose by the Mayor or City Administrator.

(F) No permit holder shall assign, sell or allow others to use such permit or to conduct business thereunder.

(2013 Code, § 17-103) (Ord. 14580, passed 2-9-1998) Penalty, see § 10.999

CHAPTER 114: CABLE TELEVISION

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GENERAL PROVISIONS

§ 114.001 DEFINITIONS.

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

BASIC CABLE. The lowest priced tier of service that includes the retransmission of local broadcast television signals.

CABLE ACT. The Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as amended.

CABLE OPERATOR. The same as the definition used in the Cable Act, as amended.

CABLE SERVICE. The same as the definition used in the Cable Act, as amended.

CABLE SYSTEM. The same as the definition used in the Cable Act, as amended.

CITY. The City of Marshalltown and the geographical area within the corporate boundaries of the city.

FCC. The Federal Communications Commission, or successor governmental entity thereto.

FRANCHISE. The initial authorization or renewal thereof, issued by the franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the cable system.

FRANCHISING AUTHORITY or **GRANTOR.** The City Council or the lawful successor, transferee or assignee thereof.

GRANTEE. Any person, firm, corporation or other entity granted a franchise under this chapter or the lawful successor, transferee or assignee thereof.

GROSS REVENUES. Any and all revenue received by the grantee from the operation of the cable system in the service area, to provide cable services; provided, however, that, such phrase shall not include any fees or franchise fees or taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the grantee on behalf of such governmental unit or agency.

HEAD-END. The land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable system.

HOUSE DROP. A cable that connects each building or home to the nearest feeder line of the cable network.

NORMAL BUSINESS HOURS. Those hours during which most similar businesses in the community are open to serve subscribers. In all cases, **NORMAL BUSINESS HOURS** shall include some evening hours at least one night per week and/or some weekend hours.

NORMAL OPERATING CONDITIONS. Those service conditions that are within the control of the grantee. Those conditions that are not within the control of the grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions, which are ordinarily within the control of the grantee, include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

OUTLET. The point of connection of the cable or wire to a television.

PERSON. An individual, partnership, association, joint stock company, trust, corporation or governmental entity.

PRIVATE PROPERTY. All property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the city.

PROPERTY OF THE GRANTEE. All property, real, personal or mixed, owned or used by the grantee, however arising from or related to or connected with the franchise.

PUBLIC ACCESS CHANNEL. Channel capacity designated for public use.

PUBLIC PROPERTY. All property, real, personal or mixed, owned or used by the city, including property owned or used by a public utility owned or operated by the city.

PUBLIC WAY. 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 and any temporary or permanent fixtures or improvements located thereon held by the franchising authority in the service area which shall entitle the franchising authority and the grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the system. The term **PUBLIC WAY** shall also mean any easement held by the franchising authority within the service area for the purpose of public travel or for utility or public service use dedicated for compatible uses and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the franchising authority and the grantee to the use thereof for the purposes of installing and operating the grantee's cable system over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to the cable system.

SERVICE AREA. The present municipal boundaries of the franchising authority.

SERVICE INTERRUPTION. The loss of video or audio on one or more channels.

SERVICE TIER. A category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

SHALL and WILL. The acts referred to are mandatory; the term **MAY** is permissive.

SUBSCRIBER. A person or user of the system who lawfully receives communications and other services therefrom with the grantee's express permission. (2013 Code, § 8-1.1) (Ord. 14586, passed 4-13-1998)

§ 114.002 FRANCHISE REQUIRED.

Subject to federal and state law, no person, firm, company, corporation or association shall construct, install, maintain or operate within any public street in the city or within any other public property of the city any equipment or facilities for the distribution of television signals over a cable system to any subscriber, unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

(2013 Code, § 8-1.2) (Ord. 14586, passed 4-13-1998)

§ 114.003 ACTION OF PARTIES.

In any action by the franchising authority or the grantee that is mandated or permitted under the terms of this chapter, such party shall act in a reasonable, expeditious and timely manner. Furthermore, when any approval or consent is required under the terms of this chapter, such approval or consent shall not be unreasonably withheld.

(2013 Code, § 8-9.1) (Ord. 14586, passed 4-13-1998)

§ 114.004 EQUAL PROTECTION.

If the franchising authority enters into a franchise, permit or license of any kind with any other person or entity other than the grantee to enter into the franchising authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained in this chapter in order that one operator not be granted an unfair competitive advantage over another and to provide all parties equal protection under the law.

(2013 Code, § 8-9.2) (Ord. 14586, passed 4-13-1998)

§ 114.005 NOTICES.

Unless expressly otherwise agreed between the parties, every notice or response required by this chapter or a cable 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 five business days after having been posted in a properly sealed and correctly addressed envelope when hand-delivered or sent by certified or registered mail, postage prepaid.

(2013 Code, § 8-9.3) (Ord. 14586, passed 4-13-1998)

§ 114.006 DESCRIPTIVE HEADINGS.

The captions to sections contained in this chapter are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text in this chapter.

(2013 Code, § 8-9.4) (Ord. 14586, passed 4-13-1998)

§ 114.007 SEVERABILITY.

If any section, sentence, division, term or provision of this chapter is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, division, term or provision of this chapter, all of which will remain in full force and effect for the term of the franchise or any renewal thereof. If the Federal Communications Commission declares any section invalid, the franchising authority and the grantee may renegotiate such section.

(2013 Code, § 8-9.5) (Ord. 14586, passed 4-13-1998)

GRANT OF FRANCHISE

§ 114.020 PURPOSE.

The purpose of this chapter is to specify requirements for the establishment, construction, operation and maintenance of a cable system in the city pursuant to I.C.A. Ch. 364 and applicable federal law. If a new applicant submits a proposal acceptable to the grantor, meets the requirements of this chapter and those of the Federal Communications Commission, and receives a majority of the votes cast in a franchise election, the grantor may then proceed to enter into a non-exclusive franchise agreement with such prospective grantee, subject to the provisions of this chapter. If the incumbent operator submits a proposal acceptable under the terms of the Cable Act of 1992, as amended, and meets the requirements of the Federal Communications Commission, the city shall proceed to fulfill its obligations under § 626 of the Cable Act of 1992.

(2013 Code, § 8-2.1) (Ord. 14586, passed 4-13-1998)

§ 114.021 LENGTH OF FRANCHISE.

The term of a franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be determined by the grantor from the effective date of such franchise or the effective date of any transfer or assignment thereof in accordance with § 114.099 of this chapter. The term of agreement will be specified in the franchise agreement. Such term shall not exceed ten years. The grantor shall award a

non-exclusive franchise to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places laid out or dedicated and all extensions thereof and additions thereto in the city poles, wires, cables, underground conduits, manholes and other conductors and fixtures necessary for the operation and maintenance in the city of a cable system, and to furnish and to sell service from such cable system to the inhabitants of the city pursuant to the terms of this chapter.

(2013 Code, § 8-2.2) (Ord. 14586, passed 4-13-1998)

§ 114.022 SIGNIFICANCE OF FRANCHISE.

(A) *Franchise non-exclusive.* Any franchise granted under this chapter by the city shall not be exclusive, and the city reserves the right to grant a similar franchise to any person at any time.

(B) *Privileges must be specified.* No privilege of exemption shall be inferred from the granting of any franchise, unless it is specifically prescribed.

(C) *Authority granted.* Any franchise granted under this chapter shall give to the grantee the right and privilege to construct, erect, operate, modify and maintain in, upon, above, over and under streets, as defined in § 114.001 of this chapter, which have been or may be dedicated and open to public use in the city, towers, antennas, poles, cables, electronic equipment and other network appurtenances necessary for the operation of a cable system in the city, subject to the requirements of this chapter.

(D) *Other regulatory agency's rules and regulations.* The grantee shall at all times during the life of any franchise granted under this chapter be subject to all lawful exercise of the police power by the grantor and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the grantor has adopted or shall adopt applying to the public generally and to other grantees.

(E) *Pole use agreements required.* Any franchise granted under this chapter shall not relieve the grantee of any obligation involved in obtaining pole or conduit use agreements from the gas, electric and the telephone companies or others maintaining poles or conduits in the streets of the city.

(F) *Revisions.* Any franchise granted under this chapter is made subject to any revisions of this chapter and the general ordinances of the grantor; provided that, such revisions do not materially alter or impair the obligations of the grantee set forth in any franchise agreement and are mutually agreed to by the grantor and grantee.

(2013 Code, § 8-2.3) (Ord. 14586, passed 4-13-1998)

§ 114.023 RIGHTS RESERVED TO GRANTOR.

(A) *Right of amendment reserved to grantor.* The grantor may from time to time add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its regulatory powers and as may be mutually agreed to by the grantor and grantee. Such additions or revisions shall be made only after a public hearing for which the grantee shall have received written notice at least 30 days prior to such hearing.

(B) *No impairment of city's rights.* Nothing in this chapter shall be deemed or construed to impair or affect in any way to any extent any right of the grantor pursuant to state law.

(C) *Grantee agrees to city's rights.* The grantor reserves every right and power which is required to be reserved or provided by an ordinance of the grantor, and the grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the grantor in its exercise of such rights or powers which have been or will be enacted or established subject to the provisions of division (A) above.

(D) *Powers of grantor.* Neither the granting of any franchise, nor any provision governing the franchise, shall constitute a waiver or bar to the exercise of any governmental right or power of the grantor.

(E) *Grantor transfer of functions.* Any administrative right or power in or administrative duty imposed upon any elected official of the city shall be subject to transfer by the grantor to any other elected official, officer, employee, department or board.

(F) *Grantor right of inspection.* The grantor reserves the right, during the life of any franchise granted under this chapter, to inspect and oversee all construction or installation work performed in the public right-of-way.

(G) *Grantor right of network installation.* The grantor reserves the right, during the life of any franchise granted under this chapter, to install and maintain for a reasonable charge upon or in the poles and conduits of the grantee and pole fixtures necessary for municipal purposes other than providing cable service on the condition that such installation and maintenance thereof does not interfere with the operation of the grantee.

(2013 Code, § 8-2.4) (Ord. 14586, passed 4-13-1998)

§ 114.024 APPLICATION FOR FRANCHISE.

No new cable franchise may be granted unless the applicant has successfully completed the application procedure in accordance with filing instructions promulgated by the grantor, as follows.

(A) *Filing fee.* Payment of a non-refundable filing fee to the grantor of \$100 shall be paid, which sum shall be due and payable at the time with the submission of the application.

(B) *Content.* All applicants must complete an application that shall include, but not be limited to, the following:

(1) *Name and address of applicant.* The name and business address of the applicant, date of application and signature of the applicant or appropriate corporate officer;

(2) *Description of proposed operation.* A general description of the applicant's proposed operation, including, but not limited to, business hours, operating staff, maintenance procedures beyond those required in this chapter, management and marketing staff policies and procedures and, if available, the rules of operation for public access;

(3) *Signal carriage.* A statement of the television and radio services to be provided, including both off the air and locally originated signals;

(4) *Special services.* A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the grantee for the public, governmental and educational channels required to be made available by the provisions of this chapter;

(5) *Corporate organization.* A statement detailing the corporation organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director;

(6) *Stockholders.* A statement identifying the number of authorized outstanding shares of the applicant's stock, including a current list of the names and current addresses of its shareholders holding 5% or more of the applicant's outstanding stock;

(7) *Intercompany relationships.* A statement describing all intercompany relationships of the applicant, including parent, subsidiary or affiliated companies;

(8) *Agreements and understandings.* A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person with respect to any franchise awarded under this chapter and the conduct of the operation thereof existing at the time of the proposal submittal;

(9) *Financial statement.* A copy of the financial statements for the two previous fiscal years;

(10) *Financial projection.* A five-year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma;

(11) *Financial support.* Suitable written evidence from a recognized financing institution, addressed to both the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to the applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the obtainment and expenditure of such funds as are required to construct, install and operate the cable television system contemplated under this chapter;

(12) *Construction timetable.* A description of system construction including the timetable for provision and extension of service to different parts of the city;

(13) *Technical description.* A technical description of the type of system proposed by the applicant, including, but not limited to, system configuration (i.e., hub, dual cable), system capacity, two-way capability and the like;

(14) *Existing franchises.* A statement of existing franchises held by the applicant indicating when the franchises were issued and when the cable systems were constructed and the present states of the cable systems in each respective

governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant;

(15) *Convictions.* A statement as to whether the applicant or any of its officers or directors or holders of 5% or more of its voting stock has in the past ten years been convicted of or has any charges pending for any crime other than a routine traffic offense and the disposition of each such case; and

(16) *Operating experience.* A statement detailing the prior cable television experience of the applicant, including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.

(C) *Supplementation to applications.* The grantor reserves the right to require such supplementary, additional or other information that the grantor deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the grantor.

(2013 Code, § 8-2.5) (Ord. 14586, passed 4-13-1998)

§ 114.025 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

(A) *Franchise acceptance, procedures.* Any franchise awarded under this chapter and the rights, privileges and authority granted thereby shall take effect and be in force from and after the award thereof; provided that, the grantee shall file with the grantor the following:

(1) A statement by the grantee of the unconditional acceptance of the franchise;

(2) A certificate of insurance as set forth in § 114.136 of this chapter; and

(3) Reimbursement to the grantor for the costs of publication of the franchise ordinance and the holding of the election connected therewith, if required by law.

(B) *Recourse of grantee.* The grantee shall have no monetary recourse whatsoever against the grantor for any loss, cost, expense or damage arising out of any provision or requirement of this chapter or its regulation. This shall not include negligent acts of the grantor, its agents or employees that are performed outside the regulatory or franchise awarding authority under this chapter.

(C) *Acceptance of power and authority of grantor.* The grantee expressly acknowledges that, in accepting any franchise awarded under this chapter, it has relied upon its own investigation and understanding of the power and authority of the grantor to grant this franchise.

(D) *Inducements not offered.* The grantee, by acceptance of any franchise awarded under this chapter, acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the grantor concerning any term or condition of this franchise that is not included in this chapter.

(E) *Grantee accepts terms of franchise.* The grantee acknowledges by the acceptance of the franchise and the terms in the franchise and in this chapter that it has

carefully read such terms and conditions and it is willing to and does accept all other obligations of such terms and conditions and further agrees that it will not claim that any provision of this chapter as adopted, or any franchise granted under this chapter, is unreasonable or arbitrary.

(F) *Incorporation of proposals.* The grantee, by the acceptance of any franchise awarded under this chapter, agrees that the matters contained in the grantee's application for the franchise and as stated in oral presentations, except as inconsistent with the Federal Communications Commission rules and regulations, law or ordinance, shall be incorporated into the franchise as though set out verbatim.

(G) *Forfeiture of proposal bond.* If the grantee fails to comply with this section, it shall acquire no rights, privileges or authority under this chapter whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with its application, shall be forfeited in full to the grantor as liquidated damages.
(2013 Code, § 8-2.6) (Ord. 14586, passed 4-13-1998)

STANDARDS OF SERVICE

§ 114.040 GEOGRAPHICAL COVERAGE.

The grantee shall provide a cable system in such manner as to pass and provide adequate tap-off facilities for every single dwelling unit, multiple-dwelling unit or other residential unit and commercial and industrial establishment within the service area, subject to the provisions of § 114.046 of this chapter.
(2013 Code, § 8-3.1) (Ord. 14586, passed 4-13-1998)

§ 114.041 CONDITIONS OF STREET OCCUPANCY.

All transmission and distribution structures, poles, other lines and equipment installed or erected by the grantee pursuant to the terms of this chapter 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 of such public ways. A grantee shall first obtain a permit from the grantor prior to commencing construction on the streets, alleys, public grounds or places and the permit shall be on a form provided by the grantor. A grantee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any purpose without having first obtained a permit to do so in the manner provided by ordinance. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.
(2013 Code, § 8-3.2) (Ord. 14586, passed 4-13-1998) Penalty, see § 114.999

§ 114.042 RESTORATION OF PUBLIC WAYS.

If, during the course of the grantee's construction, operation or maintenance of the cable system, there occurs a disturbance of any public way by the grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

(2013 Code, § 8-3.3) (Ord. 14586, passed 4-13-1998) Penalty, see § 114.999

§ 114.043 RELOCATION AT REQUEST OF FRANCHISING AUTHORITY.

(A) Upon its receipt of reasonable advance notice, not to be less than ten business days, the grantee under this chapter shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way or remove from the public way any property of the grantee when lawfully required by the franchising authority by reason of traffic conditions; public safety; street abandonment; freeway and street construction; change or establishment of street grades; or installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the franchising authority, but the grantee shall, in all cases, have the right of abandonment of its property.

(B) If public funds are available to any person using such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, the franchising authority shall make application for such funds on behalf of the grantee.

(2013 Code, § 8-3.4) (Ord. 14586, passed 4-13-1998)

§ 114.044 SAFETY REQUIREMENTS.

(A) Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner.

(B) All such work shall be performed in substantial accordance with applicable Federal Communications Commission or other federal, state and local regulations and the National Electrical Safety Code.

(C) The cable system shall not reasonably endanger or interfere with the safety of persons or property in the service area.

(2013 Code, § 8-3.5) (Ord. 14586, passed 4-13-1998) Penalty, see § 114.999

§ 114.045 UNDERGROUND AND ABOVEGROUND INSTALLATION REQUIREMENTS.

(A) *Pole agreements.* Under this chapter, the grantee may lease, rent or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables and other equipment and facilities from utility companies operating within the city and use towers, poles, lines, cables and other equipment and facilities for the system. When and where practicable, the poles used by the grantee's distribution system shall be those erected and maintained by such utility companies operating within the city;

provided, mutually satisfactory rental agreements can be reached. It is the grantor's desire that all holders of public franchises in the city cooperate with the grantee and allow the grantee the use of their poles and pole line facilities whenever possible so that the number of new or additional poles installed in the city may be minimized.

(B) *Grantee's poles.* The grantee shall have the right to erect, install and maintain its own towers, poles, guys, anchors, underground conduits and manholes as may be necessary for the proper construction and maintenance of the antenna site, head-end and distribution system; providing that, the grantee has at the work site the necessary grantor permit or copy thereof, for scheduled work, obtained in advance from the appropriate department of the grantor.

(C) *Rent of grantee's poles.* The grantee shall have the right to establish terms, conditions and specifications governing the form, type, size, quantity and location of equipment of others on its poles and shall have the further right to charge a fair rental for attachment space occupied by the equipment and plant of others. The grantor shall pay any costs incurred by the grantee in providing space for the grantor's attachments, including any necessary rearrangements of the grantee's equipment and plant to provide room for the grantor's attachments. Upon expiration, termination or revocation of a franchise or if a grantee wishes to dispose of any of its poles, conduit or manholes being used by the grantor, the grantor shall have the option to purchase them in place for their fair market value.

(D) *Underground facilities.* In those areas of the city where transmission or distribution facilities of both telephone and power companies are underground or may be placed underground, the grantee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground to the maximum extent the then-existing technology permits, in accordance with the most recent National Electrical Code and its successor document, as well as in conformance with all applicable state and municipal ordinances and codes. If and when necessary, amplifiers and/or transformers in the grantee's transmission and distribution lines shall be in appropriate housings on the surface of the ground. The grantee shall obtain a permit from the grantor for such underground and construction of all work required or pursuant to this section. Even when not required, underground installation is preferable to the placing of additional poles.

(E) *Compliance to codes.*

(1) All transmission and distribution structures, lines and equipment erected by the grantee in the city shall be located so as not to endanger or interfere with the normal use of streets, alleys or other public ways and places so as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners and so as not to interfere with existing public utility installations and so as to comply with the most recent National Electrical Code, as amended, as well as in conformance with all applicable state and municipal ordinances and codes of general applicability.

(2) If any disturbance occurs by the grantee or its equipment of pavement, sidewalks, driveway, lawn or other surfacing, the grantee shall, at its expense and in the manner required by ordinance, promptly replace and restore all such surfacing as near as reasonably possible to its prior condition.

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(3) The construction, installation, operation, maintenance and/or removal of the cable communications system shall meet all of the following safety, construction and technical specifications and codes and standards:

(a) Occupational Safety and Health Administration regulations (OSHA);

(b) National Electrical Code;

(c) National Electrical Safety Code (NESC);

(d) All federal, state and municipal construction requirements, including Federal Communications Commission rules and regulations;

(e) All Building and Zoning Codes and all land use restrictions as they exist or may be amended; and

(f) This code of ordinances.

(F) *Interference with other utilities.* The grantee shall not place poles, conduits or other fixtures aboveground or belowground where the poles, conduits or other fixtures shall interfere with any prior placement of gas, electric, telephone fixtures, water hydrants or other utilities, and all such poles, conduits or other fixtures aboveground or belowground shall be so placed as to comply with all the requirements of the grantor.

(G) *Moving permits.* The grantee shall, on request of any person holding a moving permit issued by the grantor, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid in advance by the person requesting the removal and the grantee shall be given not less than 15 working days' advance notice to arrange for such temporary changes.

(H) *Authority to trim trees.* The grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the street or alley right-of-way so as to prevent branches from coming in contact with the grantee's wires, cables or other equipment. The grantee shall reasonably compensate the franchising authority or property owner for any damages caused by such trimming or shall, in its sole discretion, and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by grantee. Such replacement shall satisfy any and all obligations the grantee may have to the franchising authority pursuant to the terms of this section.

(I) *Service area.* The grantee shall design and construct the cable system in such a manner as to pass by and provide adequate tap-off facilities for every single-family dwelling, apartment, school and city building located within the city limits based upon the corporate boundaries at the time of the granting of the franchise; provided that, such locations meet the density requirements pursuant to § 114.046 of this chapter, pertaining to extension of service.

(J) *Burial of temporary drops.* Temporary drops will be buried within two months of installation, weather permitting.

(2013 Code, § 8-3.6) (Ord. 14586, passed 4-13-1998)

§ 114.046 EXTENSION OF SERVICE.

(A) Under this chapter, the grantee shall, at its expense, promptly extend its cable system to have service available to all residents of the following:

(1) Newly annexed areas to the city not then served by a system where the average density is at least 30 dwelling units per lineal mile of proposed trunk and feeder cable route;

(2) New housing areas developed within the city limits, providing the new areas developed meet the requirements of division (A)(1) above; and

(3) Any new single-family dwelling unit, multiple-dwelling unit or other residential unit or commercial establishment which shall be extended simultaneously with electric power and telephone utilities, subject to the requirements of division (A)(1) above. The grantor may modify or exempt designated commercial and/or industrial areas of the city from the requirements of this division (A)(3) and as may be defined in the cable franchise agreement granted to the grantee.

(B) The grantee shall submit to the grantor, upon request, a written line policy that shall provide that cable service will be extended to potential subscribers who become located within 125 feet of distribution cable.

(2013 Code, § 8-3.7) (Ord. 14586, passed 4-13-1998)

§ 114.047 SERVICE TO PUBLIC BUILDINGS.

(A) Under this chapter, the grantee shall upon request provide, without charge, one outlet of basic service and expanded basic service to public buildings that shall include, but are not limited to, the locations listed in this division (A). Any additional locations other than the following must be within 500 feet of the grantee's cable system:

- (1) City hall;
- (2) Fire station;
- (3) Park and Recreation Office;
- (4) Police Department Office;
- (5) Street Department Building;
- (6) Wastewater treatment plant;
- (7) Buena Vista University;
- (8) Iowa Valley Community College;
- (9) Marshalltown Community College;
- (10) Area Education Agency 6;
- (11) St. Henry's Catholic School;
- (12) St. Mary's Catholic School;
- (13) Fisher Community Center;
- (14) City coliseum;
- (15) Marshalltown Community High School Auditorium;
- (16) Anson and Miller Middle Schools;
- (17) Anson Elementary School;
- (18) Fisher Elementary School;
- (19) Hoglan Elementary School;
- (20) Rogers Elementary School;
- (21) Woodbury Elementary School; and
- (22) Franklin Elementary School.

(B) The one outlet shall not be used to sell or further distribute services in or throughout such buildings. Users of such outlets shall hold the grantee harmless from any and all liability or claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. If additional outlets are provided to such buildings, the building owner shall pay the fees for labor and materials only.
(2013 Code, § 8-3.8) (Ord. 14586, passed 4-13-1998)

§ 114.048 CUSTOMER SERVICE STANDARDS; FCC MODEL.

Under this chapter, the grantee agrees to adhere to the Federal Communications Commission's customer service standards. A copy of such standards effective as of the effective date of the ordinance from which this chapter derives is attached as App. A to Ord. 14586.
(2013 Code, § 8-3.9) (Ord. 14586, passed 4-13-1998)

§ 114.049 LOCAL OFFICE.

A cable system business and service office, conveniently located within the city, shall be open during normal business hours and adequately staffed to accept subscriber payments and to respond to service requests and complaints.
(2013 Code, § 8-3.10) (Ord. 14586, passed 4-13-1998)

§ 114.050 DEPOSITS.

If required by federal law, the grantee under this chapter shall bear interest at the current lending rate on any subscriber deposit.
(2013 Code, § 8-3.11) (Ord. 14586, passed 4-13-1998)

§ 114.051 SUBSCRIBERS' ANTENNAS.

The grantee shall not require the removal or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of cable service.
(2013 Code, § 8-3.12) (Ord. 14586, passed 4-13-1998)

§ 114.052 DISCONNECTION.

There shall be no charge for a total disconnection of cable service. If any subscriber fails to pay a fee or charge, the grantee may disconnect the subscriber's service. Such disconnection shall not be affected until the subscriber has been given ten days' advance written notice of the intention to disconnect. After disconnection,

upon payment of any required delinquent fee or reconnection charge, the grantee shall reinstate the subscriber's service.

(2013 Code, § 8-3.13) (Ord. 14586, passed 4-13-1998)

§ 114.053 RECONNECTIONS.

The grantee shall restore cable service to a customer wishing restoration of service; provided, the customer shall first satisfy any previous obligations owed.

(2013 Code, § 8-3.14) (Ord. 14586, passed 4-13-1998)

§ 114.054 DOWNGRADES.

(A) Subscribers shall have the right to have cable service disconnected or downgraded in accordance with Federal Communications Commission rules.

(B) The billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable.

(C) A refund of unused service charges shall be paid to the customer within 45 days from the date of termination of service.

(2013 Code, § 8-3.15) (Ord. 14586, passed 4-13-1998)

§ 114.055 TERMINATION OF SERVICE.

Within 30 days of termination of cable service to any subscriber for any reason, the grantee may, upon the subscriber's written request, promptly remove all its aerial facilities and equipment from the subscriber's premises, pursuant to Federal Communications Commission rules and regulations.

(2013 Code, § 8-3.16) (Ord. 14586, passed 4-13-1998)

§ 114.056 NOTIFICATION TO GRANTOR OF SERVICE INTERRUPTIONS.

(A) The grantee shall promptly notify the grantor in writing or, if appropriate, by oral communication of any significant interruption in the operation of the cable system.

(B) For the purposes of this section, the term **SIGNIFICANT INTERRUPTION IN THE OPERATION OF THE CABLE SYSTEM** shall mean any interruption of audio or video on one or more channels a duration of at least one hour to at least 5% of the subscribers.

(2013 Code, § 8-3.17) (Ord. 14586, passed 4-13-1998)

§ 114.057 SUBSCRIBER CREDIT FOR SERVICE INTERRUPTIONS.

Upon service interruption of subscriber's cable service, the following shall apply: for service interruptions of over 24 hours, the grantee shall provide, at the subscriber's request, a credit of 1/30 of one month's fees for affected services for each 24-hour period service is interrupted.

(2013 Code, § 8-3.18) (Ord. 14586, passed 4-13-1998)

§ 114.058 SERVICE REPAIR STANDARDS.

(A) The grantee shall render efficient cable service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.

(B) Scheduled service interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the cable system.

(2013 Code, § 8-3.19) (Ord. 14586, passed 4-13-1998)

§ 114.059 REFUNDS TO SUBSCRIBERS.

(A) If the grantee fails to provide any material cable service requested by a subscriber in accordance with the current Federal Communications Commission standards, the grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber.

(B) If any subscriber terminates service for any other reason, the grantee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis.

(C) Any disputes arising under this section shall be finally resolved in accordance with § 114.119 of this chapter.

(2013 Code, § 8-3.2) (Ord. 14586, passed 4-13-1998)

§ 114.060 CHANNEL CARD.

(A) The grantee shall prepare and make available, at no charge to the subscribers, an accurate and up-to-date channel card listing the cable channels and services available over the cable system.

(B) The channel card shall be distributed to every new subscriber and within 30 days after a change or addition in channels or services offered affecting three or more channels.

(2013 Code, § 8-3.21) (Ord. 14586, passed 4-13-1998)

§ 114.061 CUSTOMER HANDBOOK.

The grantee shall provide written customer policies or a handbook to all new cable subscribers and, thereafter, upon request. The grantee's written customer policies

or handbook shall, at a minimum, comply with all notice requirements promulgated by the Federal Communications Commission. If the grantee's operating rules are changed, subscribers shall be notified in a timely manner.

(2013 Code, § 8-3.22) (Ord. 14586, passed 4-13-1998)

§ 114.062 SUBSCRIBER PRIVACY.

(A) The grantee shall be constantly alert to possible abuses of the right of privacy or other legal rights of any cable system subscriber, programmer or general citizen resulting from any device or signal associated with the cable system.

(B) The grantee shall abide by current federal law and Federal Communications Commission regulations and § 631 of the Cable Act regarding protection of subscriber privacy.

(2013 Code, § 8-3.23) (Ord. 14586, passed 4-13-1998)

§ 114.063 DISCRIMINATORY OR PREFERENTIAL PRACTICES.

The grantee shall not, in making available the services or facilities of its cable system or in its rules or regulations or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber or to any user or potential user and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This section shall not prohibit promotional campaigns to stimulate subscriptions to the cable system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

(2013 Code, § 8-3.24) (Ord. 14586, passed 4-13-1998)

§ 114.064 IDENTIFICATION OF EMPLOYEES.

(A) Under this chapter, every employee of the grantee shall be clearly identified by an identification card, badge or uniform shirt.

(B) All employees of the grantee shall display proper identification upon request of a subscriber; provided that, the grantor requires all utilities operating in the city to do the same.

(C) Every vehicle of the grantee shall be clearly marked by logo or decals; provided that, the grantor requires all the utilities operating in the city do the same.

(2013 Code, § 8-3.25) (Ord. 14586, passed 4-13-1998)

SYSTEM DESIGN AND EQUIPMENT REQUIREMENTS

§ 114.075 EMERGENCY USE.

(A) In accordance with and at the time required by the provisions of Federal Communications Commission regulations part 11, subpart D, § 11.51(h)(1), and as such provisions may from time to time be amended, the grantee shall install, if it has not already done so, and maintain an emergency alert system (EAS) for use in transmitting emergency act notifications (EAN) and emergency act terminations (EAT) in local and statewide situations as may be designated to be an emergency by the local primary (LP), the state primary (SP) and/or the state emergency operations center (SEOC), as those authorities are identified and defined within Federal Communications Commission regulations § 11.51.

(B) The franchising authority shall permit only appropriately trained and authorized persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the grantee's cable system in any manner that results in inappropriate use thereof or any loss or damage to the cable system. Except to the extent expressly prohibited by law, the franchising authority shall hold the grantee, its employees, officers and assigns harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including, but not limited to, reasonable attorney's fees and costs.

(2013 Code, § 8-4.1) (Ord. 14586, passed 4-13-1998)

§ 114.076 SWITCHING DEVICE.

The grantee, upon request from any cable subscriber, shall install at a reasonable charge a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The grantee shall not require the removal or offer to remove any subscriber's antenna lead-in wire.

(2013 Code, § 8-4.2) (Ord. 14586, passed 4-13-1998)

§ 114.077 PARENTAL CONTROL DEVICES.

Upon request and within 120 days, the grantee shall provide, at a reasonable charge to subscribers, parental control devices that allow any cable channel to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible.

(2013 Code, § 8-4.3) (Ord. 14586, passed 4-13-1998)

§ 114.078 EDUCATION AND GOVERNMENT CHANNELS.

During the term of the franchise under this chapter, the grantee shall provide at least one specially dedicated, non-commercial education and government channel to be made available to the public, groups and individuals on a first-come non-discriminatory basis. Such channels shall be operated in accordance with Federal Communications

Commission rules and regulations. The grantee shall make no charge for use of such channel. The franchising authority or its designee shall exercise sole control over the operation and shall establish rules providing for access to the education and government channel.

(2013 Code, § 8-4.4) (Ord. 14586, passed 4-13-1998)

§ 114.079 ACCESS EQUIPMENT AND FACILITIES FEES.

(A) If authorized by the grantor and after 60 days' notice from the grantor to the grantee, the grantor shall provide ongoing support for public, educational and governmental access equipment and facilities in the amount of not to exceed \$0.25, as adjusted for inflation, per subscriber per month for the entire term of this franchise, payable in the same manner as the franchise fee payment pursuant to § 114.095 of this chapter. The maximum amount of this fee shall be adjusted on March 30 of each year of the term of the franchise by a percentage equal to the percentage of increase in the cost of living, as defined by the Consumer Price Index (CPI), for the previous calendar year. The grantor acknowledges that this amount shall not be considered gross revenues subject to the payment of franchise fees pursuant to § 114.095 of this chapter.

(B) Furthermore, payments of this ongoing support shall not be deemed to be "franchise fees" within the meaning of § 622 of the Cable Act, and such payment shall not be deemed to be "payments in kind" or any involuntary payments chargeable against the compensation to be paid to the grantor by the grantee pursuant to § 114.095 of this chapter. The grantee shall be allowed to collect such fee as a pass through to cable subscribers.

(2013 Code, § 8-4.5) (Ord. 14586, passed 4-13-1998)

§ 114.080 LEASED ACCESS CHANNELS.

The grantee shall make a portion of the remaining unused cable channels available for lease to any organization, group or individual on a first come, first served basis as provided in this chapter and as required by § 612 of the Cable Act of 1992, as amended.

(2013 Code, § 8-4.6) (Ord. 14586, passed 4-13-1998)

§ 114.081 NON-SUBSCRIBER INTERFERENCE.

The grantee's cable system shall be designed, engineered and maintained so as not to interfere with the television and radio reception of residents of the city who are not subscribers on the cable system.

(2013 Code, § 8-4.7) (Ord. 14586, passed 4-13-1998)

§ 114.082 ADDITIONAL SERVICES.

Under this chapter, the grantee is encouraged to make available such additional video, radio, digital, point-to-point service and other services as are requested by subscribers and programmers who are willing to pay for such services; provided that, such services are technologically and economically feasible.
(2013 Code, § 8-4.8) (Ord. 14586, passed 4-13-1998)

§ 114.083 TECHNICAL STANDARDS.

(A) Methods of construction, installation and maintenance of the cable television system shall comply with the most recent National Electrical Code to the extent that such code is consistent with local law affecting the construction, installation, maintenance of electric supply and communications lines. To the extent that such code is inconsistent with other provisions of this franchise or with local law, the latter shall govern. The grantee must obtain all necessary construction or excavation permits in advance from the grantor.

(B) Installation and physical dimensions of any tower constructed for use in the cable television system shall comply with all appropriate Federal Aviation Administration regulations.

(C) Any antenna structure used in the cable system shall comply with all appropriate local, state and federal regulations.

(D) All working facilities and conditions used during construction, installation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.

(E) Unless it is beyond the knowledge of the grantee, the grantee shall notify the franchising authority at least 30 days prior to or as soon as it is known by the grantee of any of the following changes:

- (1) Addition to, deletion of or change in received channels;
- (2) Addition to, deletion of or change in distributed channels or in channel conversion;
- (3) Change in location of head-end or antenna sites; and
- (4) Interconnection with other cable systems.

(F) The cable system permitted to be operated under this chapter shall be maintained and operated in conformance with Federal Communications Commission rules and regulations. If the Federal Communications Commission ceases to regulate technical standards, the grantee will comply with the standards of the successor regulatory authority of the State or Federal Government.
(2013 Code, § 8-4.9) (Ord. 14586, passed 4-13-1998)

§ 114.084 FILING OF MAPS.

Upon request of the grantor pursuant to this chapter, the grantee shall file with the grantor strand maps, showing the location of all property and facilities of the grantee within the city.
(2013 Code, § 8-4.10) (Ord. 14586, passed 4-13-1998)

FRANCHISING AUTHORITY

§ 114.095 FRANCHISE FEE.

(A) *Payment.* In consideration for the use of the streets and public ways of the city for the construction, operation, maintenance and reconstruction of a cable system within the city, the grantee shall pay to the grantor an annual amount equal to 5% of the grantee's gross revenues as defined in § 114.001 of this chapter. This includes, but is not limited to, all subscriber's payments, installation fees, converter boxes, local advertising, leased access channels and pay per view. This amount shall not include any taxes on cable service that are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the grantee on behalf of such governmental unit or agency.

(B) *Quarterly payments.* Payment due to the grantor under this section shall be made quarterly at the City Clerk's office not later than 45 days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of 1.5% per month from the date due. Each payment shall be accompanied with a report to the city by the grantee showing the basis for the computation, specific income categories and such other relevant facts as may be required by the grantor necessary to determine the accuracy of the franchise payment and shall be in the form provided by App. B, attached to Ord. 14586 and incorporated in this chapter. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim the grantor may have for additional sums payable by the grantee. All amounts paid shall be subject to audit and recomputation by the grantor.

(C) *Limitation on actions.* The period of limitation for recovery of any franchise fee payable under this section shall be ten years from the date on which payment by the grantee is due.

(D) *Audit.* The grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the grantor. The grantor will pay for the costs associated with the audit; provided that, the grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of 5% or more.

(E) *Increases.* The grantor may request an increase in franchise fees at any time during the term of the franchise equal to the maximum allowed by federal law. However, such request shall be made in writing, and the grantee will not be liable for the increase until proper notice, as defined by federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the grantor shall conduct a public hearing and shall grant an opportunity to the grantee to discuss the proposed increase in franchise fees.

(2013 Code, § 8-5.1) (Ord. 14586, passed 4-13-1998)

§ 114.096 RATES AND CHARGES.

(A) The franchising authority may regulate rates for the provision of basic cable and equipment as expressly permitted by § 623 of the Cable Act of 1992, as amended, and applicable law.

(B) Any rate adjustments shall be filed with the City Clerk not later than 30 days prior to the implementation of the adjustment.
(2013 Code, § 8-5.2) (Ord. 14586, passed 4-13-1998)

§ 114.097 FRANCHISE RENEWAL.

The franchising authority and the grantee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the grantee's cable franchise shall be governed by and comply with the provisions of § 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

(2013 Code, § 8-5.3) (Ord. 14586, passed 4-13-1998)

§ 114.098 CONDITIONS OF SALE.

If a renewal or extension of the grantee's cable 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 person, any such acquisition or transfer shall be at a price determined pursuant to the provisions set forth in § 627 of the Cable Act.

(2013 Code, § 8-5.4) (Ord. 14586, passed 4-13-1998)

§ 114.099 TRANSFER OF FRANCHISE.

(A) (1) Any franchise granted under this chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of, including, but not limited to, by forced or voluntary sale, except to the entity controlling, controlled by or under common control with the grantee, without the prior written consent of the franchising authority.

(2) Such consent as required by the franchising authority shall be given or denied no later than 120 days following any request and shall not be unreasonably withheld.

(3) Prior consent shall not be required when transferring the franchise between wholly owned subsidiaries of the same entity, nor shall such consent be required for a transfer in trust, by mortgage, by other hypothecation or assignment of any rights, title or interest of the grantee in the cable system in order to secure indebtedness.

(B) If the grantee sells or otherwise transfers ownership in the cable system, such sale or transfer shall conform to § 617 of the Cable Act. For the purpose of

determining whether it shall consent to such change, transfer or acquisition of control, the franchising authority may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the franchising authority in any such inquiry. In seeking the grantee's consent to any change in ownership or control, the transferee shall have the responsibility to:

(1) Show to the satisfaction of the franchising authority whether the proposed purchaser, transferee or assignee (referred to as the "proposed transferee") which, in the case of a corporation, shall include all directors and all persons having a legal or equitable interest of 50% or more of the voting stock, has:

(a) Ever been convicted or held liable for acts involving moral turpitude, including, but not limited to, any violation of federal, state or local law or regulations or is presently under an indictment, investigation or complaint charging such acts;

(b) Ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him or them by any court of competent jurisdiction; or

(c) Pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system. The franchising authority retains the right to withhold approval of the transfer until the transferee has provided the information required in this division (B)(1).

(2) Establish, to the satisfaction of the franchising authority, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the grantee was required to submit in its franchise application, and such other data as the franchising authority may request, where such shall be audited, certified and qualified by a certified public accountant; and

(3) Establish to the satisfaction of the franchising authority any technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

(C) (1) Any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the franchising authority that the financial institution or its designee, as approved in writing by the franchising authority, shall take control and operate the cable system if the grantee defaults in its financial obligations.

(2) Further, such financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the cable system for a period exceeding one year, unless extended by the franchising authority at its discretion, but, during such period of time, it shall have the right to petition the franchising authority to transfer the franchise to another grantee.

(3) Except insofar as the enforceability of this division (C) may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, and further subject to applicable federal, state or local law, if the franchising authority finds that such transfer, after considering the legal, financial and technical qualities of the proposed transferee, is satisfactory, the

franchising authority shall transfer and assign the right and obligations of such franchise as in the public interest.

(D) The consent or approval of the franchising authority to any transfer by the grantee shall not constitute a waiver or release of the rights of the franchising authority in and to the streets, and any transfer shall, by its terms, be expressly subject to the terms and conditions of any franchise.

(E) In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory of the franchise agreement.

(F) The franchising authority may approve the transfer or deny the transfer pursuant to § 617 of the Cable Act.

(G) When the grantor approves a transfer under this section, the new grantee shall indicate acceptance of the franchise as specified in § 114.025 of this chapter, including the filing of all necessary bonds, funds, proofs of insurance and certifications.

(H) The restrictions of this section shall be effective immediately upon execution of a franchise agreement.

(2013 Code, § 8-5.5) (Ord. 14586, passed 4-13-1998)

§ 114.100 RIGHT OF INSPECTION OF CONSTRUCTION.

The grantor shall have the right to visually inspect all construction or installation work performed subject to the provisions of this chapter and to make such visual inspections as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provisions of law.

(2013 Code, § 8-5.6) (Ord. 14586, passed 4-13-1998)

§ 114.101 NEW DEVELOPMENTS.

The grantee is encouraged to upgrade its facilities, equipment and service so that its cable system is as advanced as the current state of production technology will allow.

(2013 Code, § 8-5.7) (Ord. 14586, passed 4-13-1998)

COMPLIANCE AND MONITORING

§ 114.115 TESTING FOR COMPLIANCE.

(A) The grantor shall have the right to compel the grantee to test, analyze and report on the performance of the cable system. The grantor may also perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the grantee or the cable system in order to determine whether or not the grantee is in compliance with the terms

of this chapter and applicable state or federal laws. Such tests may be undertaken only after giving the grantee reasonable notice thereof, not to be less than ten business days, and providing a representative of the grantee has an opportunity to be present during such tests. If such testing demonstrates that the grantee has substantially complied with such material provisions of this chapter, the cost of such testing shall be borne by the franchising authority. Except in emergency circumstances, the franchising authority agrees that such testing shall be undertaken no more than once a year and that the results thereof shall be made available to the grantee.

(B) Any special performance tests or measurements required by the grantor shall be reported to the grantor within 14 business days after such tests or measurements are performed. Such report shall include the following information: the nature of the complaint that precipitated the special tests; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

(2013 Code, § 8-6.1) (Ord. 14586, passed 4-13-1998)

§ 114.116 BOOKS AND RECORDS.

The franchising authority or its certified public accountant, upon reasonable notice to the grantee, may review such of its books and records at the grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this chapter. Such records shall include, but shall not be limited to, any public records required to be kept by the grantee pursuant to the rules and regulations of the Federal Communications Commission. Notwithstanding anything to the contrary set forth in this chapter, the grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature under state and federal rules of evidence. 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 of this chapter. The grantee shall not be required to provide subscriber information in violation of § 631 of the Cable Act.

(2013 Code, § 8-6.2) (Ord. 14586, passed 4-13-1998)

§ 114.117 COMMUNICATIONS WITH REGULATORY AGENCIES.

Copies of all petitions, applications, communications, reports and all other documents pertaining to the cable system and franchise submitted by the grantee or its parent companies to the Federal Communications Commission, Securities and Exchange Commission or any other federal or state regulatory commission or agency shall be made available to the grantor upon written request to the grantee.

(2013 Code, § 8-6.3) (Ord. 14586, passed 4-13-1998)

§ 114.118 COMPLAINT RECORDS.

(A) A written log or an equivalent stored in computer memory and capable of access and reproduction shall be maintained for all service interruptions or complaints regarding cable system service problems.

(B) The grantee shall maintain detailed logs setting forth the date and substance of each service interruption or complaint regarding the system service problems received by phone, mail or other means during the preceding calendar month and the date and nature of action taken by the grantee to respond to such complaints or, if still pending, the status thereof.

(C) Such logs shall be available to the grantor for review for two years thereafter.

(2013 Code, § 8-6.4) (Ord. 14586, passed 4-13-1998)

§ 114.119 CITY'S ROLE IN COMPLAINTS.

(A) (1) Unresolved complaints concerning the cable system or its operation or maintenance shall be directed to the City Administrator.

(2) The City Administrator shall forward the complaint to the grantee or shall take up the question by correspondence with the grantee.

(B) The procedure to handle complaints and grievances with respect to subscriber complaints and the quality of services rendered by the grantee, equipment malfunctions and other matters shall be as follows.

(1) Within 30 days from the occurrence of the facts and circumstances giving rise to a complaint or grievance, the complainant shall state his or her complaint or grievance to the grantee in writing. If the grantor receives such a complaint or grievance, the complaint shall be forwarded to the grantee in writing.

(2) Within five days from the receipt of a complaint or grievance by the grantee, the grantee shall state to the complainant its intentions with respect to the complaint or grievance in writing.

(3) Nothing in this section shall limit or alter the requirements contained in this chapter for customer service standards as contained in App. A to Ord. 14586.

(4) The grantor shall be notified of the action taken to resolve grievances or complaints.

(2013 Code, § 8-6.5) (Ord. 14586, passed 4-13-1998)

§ 114.120 PERFORMANCE TESTING.

The grantee shall perform all cable system tests and maintenance procedures as required by the Federal Communications Commission and this chapter.

(2013 Code, § 8-6.6) (Ord. 14586, passed 4-13-1998)

§ 114.121 REVIEW SESSIONS.

(A) (1) In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the city to provide for a maximum feasible degree of flexibility in this franchise throughout its term to achieve an advanced and modern cable system for the city. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes.

(2) For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties.

(B) The grantor may hold periodic review sessions. All such review sessions shall be open to the public, and notice thereof shall be published once, not less than four days or more than 20 days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The review sessions may be canceled by mutual agreement of the grantor and grantee. The following topics may be discussed at every scheduled review session:

- (1) Recent and developing judicial and federal communications rulings;
- (2) Service rate structures;
- (3) Free and discounted services;
- (4) Application of new technology or new developments;
- (5) Cable system performance;
- (6) Cable system extension policy;
- (7) Services provided;
- (8) Programming offered;
- (9) Customer complaint review;
- (10) Community development and education;
- (11) Interconnection;
- (12) New services;
- (13) Franchise fees;
- (14) Subscriber privacy abuse issues; and
- (15) New developments.

(C) Other topics, in addition to those listed in division (B) above, may be added by either party. Members of the general public may also request additional topics.

(2013 Code, § 8-6.7) (Ord. 14586, passed 4-13-1998)

§ 114.122 REGULATORY RESPONSIBILITY.

The franchising authority, acting alone or acting jointly with other franchising authorities, may exercise or delegate the following responsibilities under this chapter:

- (A) Administering the provision of the cable system franchise;
- (B) Coordinating the operation of community access channel and facilities;

- (C) Providing technical, programming and operational support to public agency users, such as government departments, schools and health care institutions;
 - (D) Establishing jointly with the grantee, or as otherwise specified in the franchise agreement, procedures and standards for use of channels dedicated to public use and the sharing of public facilities, if provided for in any franchise agreement;
 - (E) Planning the expansion and growth of public benefit cable services; and
 - (F) Formulating and recommending long-range telecommunications policy.
- (2013 Code, § 8-6.8) (Ord. 14586, passed 4-13-1998)

§ 114.123 ANNUAL REPORT.

(A) No later than 90 days after the close of the grantee's fiscal year, the grantee shall submit a detailed written informative report to the city, including the following information pertaining only to the cable franchise in the city:

- (1) A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or dropped and subscribers gained or lost;
 - (2) A detailed revenue statement including a breakdown of all revenue sources upon which the city can verify franchise fee accuracy. The list of revenues shall include, but not be limited to, a specific breakdown of the following items: basic tier service charges; expanded basic service charges; installation charges; reconnection fees; advertising revenues; premium channel revenues; shopping service revenue; revenue from other sources such as contracted or subleased video, audio and data transmission services; pay per view and miscellaneous revenue; and total customers per month per category;
 - (3) A summary of complaints, identifying the number and specific nature of complaints and their disposition;
 - (4) A list of key management persons for the franchise along with their addresses and job titles;
 - (5) The annual report of the parent company, if a public corporation;
 - (6) A summary of types of communication signals and services provided without charge or provided under a barter arrangement along with their dollar equivalent; and
 - (7) A written confirmation that insurance coverages are maintained as required in § 114.136 of this chapter.
- (B) The grantee shall only be required to provide the information listed in division (A) above upon written request by the grantor.
- (2013 Code, § 8-6.9) (Ord. 14586, passed 4-13-1998)

INSURANCE AND INDEMNIFICATION

§ 114.135 INDEMNIFICATION.

Under this chapter, the grantee shall defend, indemnify, protect and hold harmless the grantor from and against any and all liability, losses and damage to property or bodily injury or death to any person, including payments made under worker's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance or operation of grantee's cable system and caused by any act or failure to act on the part of the grantee, its agents, officers, servants or employees. The grantor shall give the grantee written notice of its obligation to indemnify
(2013 Code, § 8-7.1) (Ord. 14586, passed 4-13-1998)

§ 114.136 INSURANCE COVERAGE AND NOTIFICATIONS.

(A) For the purposes of this chapter, the grantee shall maintain insurance in such amounts and kinds of coverage's as may be specified in this section. The grantee shall maintain such insurance with insurance underwriters authorized to do business in the state. All policies shall name the grantor, its employees, servants, agents and officers as additional insured parties. Each policy shall provide that it may not be canceled, nor the amount of coverage altered until 30 days after receipt by the City Clerk of a registered mail notice of such intent to cancel or alter coverage.

(B) The grantee shall maintain and provide to the City Clerk proof of public liability insurance for not less than the following amounts:

- (1) Any one occurrence, bodily injury or property damage: \$1,000,000;
- (2) Products/completed operations annual aggregate liability: \$1,000,000; and
- (3) General aggregate: \$1,000,000.

(2013 Code, § 8-7.2) (Ord. 14586, passed 4-13-1998)

§ 114.137 INSURANCE FOR CONTRACTORS AND SUBCONTRACTORS.

The grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or subcontractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of the grantee's cable system.

(2013 Code, § 8-7.3) (Ord. 14586, passed 4-13-1998)

§ 114.138 FORECLOSURE.

A foreclosure or other judicial sale of all or part of the cable system shall be treated as a change in control of the grantee and the provisions of § 114.162 of this chapter shall apply.

(2013 Code, § 8-7.4) (Ord. 14586, passed 4-13-1998)

§ 114.139 RECEIVERSHIP.

The city shall have the right to cancel the franchise granted pursuant to this chapter 120 days after the appointment of a receiver or trustee to take over and conduct the business of the grantee, whether in receivership, reorganization, bankruptcy or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of such 120 days or unless, within 120 days after being elected or appointed, such receiver or trustee shall have:

(A) Fully complied with all provisions of this chapter and remedied all defaults there under; and

(B) Executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this chapter and the franchise granted to the grantee.

(2013 Code, § 8-7.5) (Ord. 14586, passed 4-13-1998)

§ 114.140 CONTINUITY OF SERVICE.

It shall be the right of all subscribers to continue receiving cable service insofar as their financial and other obligations to the grantee are honored. If the grantee elects to overbuild, rebuild, modify or sell the cable system or the franchising authority gives notice of intent to terminate or fails to renew this franchise, the grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service for three months. If a change in the grantee occurs or if a new operator acquires the cable system, the original grantee shall cooperate with the franchising authority, a new grantee or operator in maintaining continuity of service to all subscribers. During such period, the grantee shall be entitled to the revenue for any period during which it operates the cable system and shall be entitled to reasonable costs for its services when it no longer operates the cable system.

(2013 Code, § 8-7.6) (Ord. 14586, passed 4-13-1998)

§ 114.141 FRANCHISE PROCESSING COSTS.

(A) *New franchises.* For a new cable franchise awarded, the costs to be borne by the grantee shall include, but shall not be limited to, all costs of publication of notices prior to any public meeting and publication of relevant ordinances and franchise agreements incurred by the franchising authority.

(B) *Franchise renewal.* For a franchise renewal, the grantee shall reimburse the franchising authority the cost of publication of the relevant franchise agreement.

(C) *Franchise transfer.* For a franchise transfer, the transferee shall reimburse the franchising authority the cost of publication of relevant franchise agreements. The franchising authority reserves the right to withhold approval of such transfer until the transferee has reimbursed all publication costs.

(D) *Other costs.* The processing costs provided for in this section shall be in addition to any other inspection or permit fee or other fees due to franchising authority under any other ordinance of general applicability.

(2013 Code, § 8-7.7) (Ord. 14586, passed 4-13-1998)

§ 114.142 TAXES.

Subject to federal and state law, the grantee under this chapter shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied or imposed upon the property of the grantee and upon any services rendered by the grantee.

(2013 Code, § 8-7.8) (Ord. 14586, passed 4-13-1998)

ENFORCEMENT AND TERMINATION OF FRANCHISE

§ 114.155 NOTICE OF VIOLATION.

If the franchising authority believes that the grantee has not complied with the terms of the franchise granted under this chapter, it shall notify the grantee in writing of the exact nature of the alleged non-compliance.

(2013 Code, § 8-8.1) (Ord. 14586, passed 4-13-1998)

§ 114.156 GRANTEE'S RIGHT TO CURE OR RESPOND.

The grantee shall have 30 days from receipt of the notice described in § 114.155 of this chapter to:

(A) Respond to the franchising authority, contesting the assertion of non-compliance;

(B) Cure such default; or

(C) If, by the nature of default, such default cannot be cured within the 30-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.

(2013 Code, § 8-8.2) (Ord. 14586, passed 4-13-1998)

§ 114.157 PUBLIC HEARING.

(A) If the grantee fails to respond to the notice described in § 114.155 of this chapter, pursuant to the procedures set forth in § 114.156 of this chapter, or if the alleged default is not remedied within 30 days or the date projected pursuant to §

114.156(C) of this chapter, the franchising authority shall schedule a public hearing to investigate the default.

(B) The franchising authority shall notify the grantee in writing of the time and place of such meeting no less than five business days in advance and shall provide the grantee with an opportunity to be heard.

(2013 Code, § 8-8.3) (Ord. 14586, passed 4-13-1998)

§ 114.158 ENFORCEMENT.

(A) If the franchising authority, after the public hearing as provided in § 114.157 of this chapter, determines that the grantee is in default of any provision of the franchise, the franchising authority, subject to applicable federal law, may:

(1) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

(2) Commence an action at law for monetary damages or seek other equitable relief; or

(3) If there is a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked in accordance with the procedures outlined in this section.

(B) The franchising authority shall give written notice to the grantee of its intent to revoke the franchise on the basis of non-compliance by the grantee, including one or more instances of substantial non-compliance with a material provision of the franchise. The notice shall set forth the exact nature of the non-compliance. The grantee shall have 30 days from such notice to object in writing and to state its reasons for such objection. If the franchising authority has not received a response satisfactory 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 five days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination.

(C) (1) At the designated meeting, the franchising authority shall give the grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked.

(2) 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 and to modify or reverse such decision as justice may require.

(3) Such appeal to the appropriate court must be taken within 120 days of the issuance of the determination of the franchising authority.

(D) The franchising authority may, at its sole discretion, take any lawful action that it deems appropriate to enforce the franchising authority's rights under the franchise in lieu of revocation of the franchise.

(2013 Code, § 8-8.4) (Ord. 14586, passed 4-13-1998)

§ 114.159 CLOSING STREETS.

Under this chapter, the grantee shall not be entitled to damages from the grantor sustained by the virtue of the closing, vacation or relocation of any streets or alleys. (2013 Code, § 8-8.5) (Ord. 14586, passed 4-13-1998)

§ 114.160 RESERVATION OF RIGHTS.

The grantee shall not be relieved of its obligation to comply with this chapter by reason of the grantor's failure to enforce prompt compliance. (2013 Code, § 8-8.6) (Ord. 14586, passed 4-13-1998)

§ 114.161 IMPOSSIBILITY OF PERFORMANCE.

The grantee shall not be held in default or non-compliance with the provisions of the franchise granted under this chapter or suffers any enforcement or penalty relating thereto where such non-compliance or alleged defaults are caused by the following circumstances if reasonably beyond its control:

- (A) Necessary utility rearrangements, pole change outs or obtainment of easement rights;
- (B) Governmental or regulatory restrictions;
- (C) Lockouts;
- (D) War;
- (E) National emergencies;
- (F) Fire; and
- (G) Acts of God.

(2013 Code, § 8-8.7) (Ord. 14586, passed 4-13-1998)

§ 114.162 TERMINATION OF FRANCHISE.

(A) *Grounds for revocation.* Under this chapter, the grantee reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise if:

- (1) The grantee should default in the performance of any of its material obligations under this chapter or the franchise and fails to cure the default within 60 days after receipt of written notice of the default from the grantor, or such longer time as specified by the grantor;
- (2) A petition is filed by or against the grantee under the bankruptcy act or any other insolvency or creditors' rights law, state or federal, and the grantee shall fail to have it dismissed;
- (3) A receiver, trustee or liquidator of the grantee is applied for or appointed for all or part of the grantee's assets;
- (4) The grantee makes an assignment for the benefit of creditors;
- (5) The grantee violates any order or ruling of any state or federal regulatory body having jurisdiction over the grantee, unless the grantee or any party

similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a court of appropriate jurisdiction;

(6) The grantee evades any of the provisions of this chapter or the franchise agreement;

(7) The grantee practices intentional fraud or deceit upon the grantor or cable subscribers;

(8) The grantee materially misrepresents facts in the application for a franchise; and/or

(9) The grantee ceases to provide services over the cable system for seven consecutive days for any reason within the control of the grantee.

(B) *Restoration of property.*

(1) In removing its plant, structures and equipment, the grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments.

(2) The grantor shall inspect and approve the condition of the public ways and public places and cables, wires, attachments and poles after removal.

(3) Liability insurance indemnity provided in § 114.136 of this chapter and the performance bond in § 114.164 of this chapter shall continue in full force and effect during the period of removal.

(C) *Reimbursement of costs.* If the grantee fails to complete any work as required in divisions (A) and (B) above or any work required by law or ordinance within the time established and to the satisfaction of the grantor, the city may cause such work to be done, and the grantee shall reimburse the grantor the costs thereof within 30 days after receipt of an itemized list of such costs or the grantor may recover such costs as provided in § 114.136 of this chapter.

(2013 Code, § 8-8.8) (Ord. 14586, passed 4-13-1998)

§ 114.163 SECURITY FUND.

(A) Within ten days after execution of the franchise agreement pursuant to this chapter, the grantee shall deposit with the City Clerk and shall maintain on deposit through the term of this franchise the sum of \$10,000 as security for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits and directions of any agency of the grantor having jurisdiction over its acts or defaults under the contract and the payment by the grantee of any claims, liens and taxes due the grantor which arise by reason of the construction, operation or maintenance of the system.

(B) Within ten days after notice that any amount has been withdrawn from the security fund deposited pursuant to division (A) above, the grantee shall pay to or deposit with the City Clerk a sum of money sufficient to restore such security fund to the original amount of \$10,000.

(C) (1) If the grantee fails to pay to the grantor any compensation within the time fixed or fails after ten days' notice to pay to the grantor any taxes due and

unpaid or fails to repay to the grantor within such ten days any damages, costs or expenses which the grantor shall be compelled to pay by reason of any act or default of the grantee in connection with this franchise or fails after three days' notice of such failure by the grantor to comply with any provision of this contract which the grantor reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund.

(2) Upon such withdrawal, the City Clerk shall notify the company of the amount and date thereof.

(D) The security fund deposited pursuant to this section shall become the property of the grantor if this contract is canceled by reason of the default of the grantee. The grantee, however, shall be entitled to the return of such security fund or portion thereof as remains on deposit at the expiration of the term of this franchise; provided that, there is then no outstanding default on the part of the grantee. Interest earned by the investment of the security fund will accrue to the grantee.

(E) The rights reserved to the grantor with respect to the security fund are in addition to all other rights of the grantor, whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the grantor may have.

(2013 Code, § 8-8.9) (Ord. 14586, passed 4-13-1998)

§ 114.164 FAITHFUL PERFORMANCE BOND.

Upon acceptance of a franchise pursuant to this chapter, the grantee shall submit and maintain throughout the term of the franchise a faithful performance bond in the amount of \$100,000. The bond shall ensure compliance with all applicable laws, regulations, ordinances and provisions of this permit; shall provide for recoverable loss or damages, compensation, indemnification, reasonable attorney fees, cost of removal or abandonment of the grantee's property; and shall cover penalties of \$100 per day for failure to meet the construction requirements of any franchise agreement.

(2013 Code, § 8-8.10) (Ord. 14586, passed 4-13-1998)

§ 114.999 PENALTY.

If a grantee fails to comply with the requirements of this chapter or a cable franchise agreement, the city may proceed against the grantee in accordance with § 10.999(B), (C) and (D) of this code of ordinances, pertaining to municipal infractions of this code or as authorized by I.C.A. § 364.22. However, this section does not limit the pursuit by either the grantor or a grantee of any other civil remedy for any breach of a cable franchise agreement.

(2013 Code, § 8-8.11) (Ord. 14586, passed 4-13-1998)

CHAPTER 115: GAS AND PLUMBING

Section

- 115.001 Enforcement by Plumbing and Gas Inspector
- 115.002 Inspector a part of the Building Department; inspections
- 115.003 Gas fitting and plumbing permit required
- 115.004 Insurance

- 115.999 Penalty

Cross-reference:

Building Regulations; Construction, see Ch. 151

Housing Code, see Ch. 152

Plumbing Code, see Ch. 153

§ 115.001 ENFORCEMENT BY PLUMBING AND GAS INSPECTOR.

The Plumbing and Gas Inspector shall enforce all ordinances relating to the gas heating contractors, gasfitters and plumbing; the rules and regulations of the state's Board of Health relating to gas heating contractors, gasfitters and plumbing; the laws of the state relating thereto; and shall have and perform such other duties and responsibilities as may from time to time be delegated to him or her. The Chief Building Official will supervise the Inspector.

(2013 Code, § 14-3) (Ord. 14309, passed 12-18-1989; Ord. 14535, passed 4-8-1996)

§ 115.002 INSPECTOR A PART OF BUILDING DEPARTMENT; INSPECTIONS.

The city's Plumbing and Gas Inspector shall be a part of the office of the city's Building Department, and the officers therein can inspect any work under this chapter at any time without notice. Any license, permit or certificate provided for in this chapter shall be exhibited to such official upon request.

(2013 Code, § 14-4) (Ord. 14309, passed 12-18-1989; Ord. 14535, passed 4-8-1996)

§ 115.003 GAS FITTING OR PLUMBING PERMIT REQUIRED.

No person, firm or corporation shall begin the construction, reconstruction, alteration or repair of any gas fitting, plumbing or house drainage system in or for any building in the city, without first having obtained a permit from the City's Building Department. The City Council shall establish by resolution a schedule of fees for issuance of gas and plumbing permits.

(2013 Code, § 14-75) (Ord. 14309, passed 12-18-1989; Ord. 14535, passed 4-8-1996)

§ 115.004 INSURANCE.

Before a gas fitting or plumbing permit shall be issued, the applicant shall file with the City Clerk a liability insurance policy pursuant to § 10.009 of this code of ordinances. (2013 Code, § 14-73) (Ord. 14309, passed 12-18-1989; Ord. 14425, passed 5-10-1993; Ord. 14535, passed 4-8-1996)

§ 115.999 PENALTY.

Any person who violates any section of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances. In addition, a violation of this chapter is a municipal infraction. In addition to the foregoing, the city's Plumbing and Gas Inspector may order the removal, correction or disconnection of any gas or plumbing installation that does not meet the code specifications and shall have the authority to disconnect installation when it is found that it endangers life and health. (2013 Code, § 14-2) (Ord. 14309, passed 12-18-1989; Ord. 14535, passed 4-8-1996; Ord. 14970, passed 11-27-2017)

CHAPTER 116: HOTELS

Section

116.001 Hotel guest registry

§ 116.001 HOTEL GUEST REGISTRY.

(A) The guest register, which is required by I.C.A. § 137C.25E to be maintained by hotels disclosing the room number, name, residence, date of arrival and date of departure of each individual renting or leasing a room, accommodations or facilities of the hotel, shall be immediately disclosed to any law enforcement officer upon request and proper identification, for purposes of inspection and copying.

(B) For purposes of this section, a **HOTEL** is as defined in I.C.A. § 137C.2(5), as any building or structure, equipped, used, advertised as or held out to the public to be an inn, hotel, motel, motor inn or place where sleeping accommodations are furnished to transient guests for hire.

(C) Any information which is known or available to the proprietor of the hotel shall also be provided to law enforcement, but not yet included in the registry for any reason, shall also be disclosed upon request.
(2013 Code, § 21-151) (Ord. 14887, passed 7-11-2011)

CHAPTER 117: JUNK DEALERS AND PAWNBROKERS

Section

Junk Dealers

- 117.001 Definition
- 117.002 License required; fees
- 117.003 Bond
- 117.004 Proximity to residential property; compliance with Zoning Ordinance required
- 117.005 Disposal of acid from junked batteries
- 117.006 Trafficking with minors

Motor Vehicle Junkyards

- 117.020 Definition
- 117.021 Operation
- 117.022 License fee
- 117.023 Period for compliance

Pawnbrokers

- 117.035 Definition
- 117.036 License required
- 117.037 Criteria considered for issuance of license
- 117.038 License issuance
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- 117.040 Separate license for each place of business
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- 117.042 License sale or transfer
- 117.043 License renewals
- 117.044 License denial, suspension or revocation
- 117.045 Records; failure to maintain
- 117.046 Prohibited acts
- 117.047 Search for stolen property

JUNK DEALERS

§ 117.001 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

JUNK DEALER. Any person, firm or corporation who shall keep, maintain, operate, or use any building, lot, parcel of ground or other place for assembling, collecting, dumping, wrecking, storing or keeping of old iron, junked automobiles, machinery and other refuse material for the purpose of salvage or sale of such. (2013 Code, § 17-121) (Ord. 33, passed 8-14-1950)

§ 117.002 LICENSE REQUIRED; FEES.

It shall be unlawful for any person to keep, maintain, operate or use any building, lot, parcel of ground or other place or premises, for the purpose of collecting, storing, selling or otherwise dealing in junk, either at wholesale or at retail, without first securing a license therefor, which license shall be, an annual license fee determined by Council. (2013 Code, § 17-122) (Ord. 33, passed 8-14-1950; Ord. 14666, passed 11-27-2000) Penalty, see § 10.999

§ 117.003 BOND.

Before any person shall receive a license for doing business as a junk dealer having an established place of business, the person shall file with the City Clerk a bond, with surety to be approved by the City Clerk in the sum of \$1,000. Such bond shall be conditioned that the principal named therein will observe the city ordinances relating to junk dealers and conduct his or her business in conformity thereto, and that the person will account for and deliver to any person legally entitled thereto any goods, wares or merchandise, article or thing which may have come into his or her hands through the business or, in lieu thereof, will pay in money to such person the reasonable value thereof. (2013 Code, § 17-123) (Ord. 32, passed 8-14-1950; Ord. 14609, passed 12-30-1998)

§ 117.004 PROXIMITY TO RESIDENTIAL PROPERTY; COMPLIANCE WITH ZONING ORDINANCE REQUIRED.

A junk dealer shall not keep, maintain, operate or use any building, lot, parcel of ground or other place for the conducting of the junk business in any location where 50% of the property within 300 feet is used for residence purposes, and then only in such district in which the junk business may be permitted under the city zoning ordinance in effect or adopted. (2013 Code, § 17-124) (Ord. 33, passed 8-14-1950) Penalty, see § 10.999

§ 117.005 DISPOSAL OF ACID FROM JUNKED BATTERIES.

It shall be unlawful for any junk dealer, or employee, to junk any electric battery or other receptacle containing acid, except by emptying said acid in a pit in the ground in said lot, said pit to be of sufficient depth and width to prevent escape of said acid. (2013 Code, § 17-125) (Ord. 33, passed 8-14-1950) Penalty, see § 10.999

§ 117.006 TRAFFICKING WITH MINORS.

It shall be unlawful for any junk dealer to buy or receive any property from a minor without the written consent of the parents or guardian.
(2013 Code, § 17-126) (Ord. 33, passed 8-14-1950) Penalty, see § 10.999

MOTOR VEHICLE JUNKYARDS

§ 117.020 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE JUNKYARD. Any place, parcel or tract of ground, wherein or whereon there is assembled or brought together six or more used, damaged, obsolete, worn out or discarded motor vehicles for the purpose of stripping, wrecking, disassembling or otherwise reducing the vehicles into their several component parts for the purpose of salvaging the materials or parts thereof.
(2013 Code, § 17-127) (Ord. 14066, passed 8-24-1981)

§ 117.021 OPERATION.

(A) It shall be unlawful for any person, firm or corporation to maintain any motor vehicle junkyard, as defined by § 117.020 of this chapter, unless the place where the junkyard is located complies with the following: it shall be enclosed with a solid fence not less than seven feet in height so as not to be open to public view. The enclosure shall be maintained in a neat and substantial condition and, if of wood, it shall be painted.

(B) A junkyard owner may make application to the city's Board of Adjustment for an exception to the fence requirement. The Board of Adjustment shall consider the following factors in granting such an exception:

- (1) The health, safety and welfare of the public;
- (2) The visual impact on the public and adjacent landowners; and
- (3) If one or more sides of the junkyard have no visual impact on the public, an exception to the required fence may be granted on those particular sides only. This means that any side that is allowed to be unfenced must not face any occupied business or occupied structure, except another junkyard.

(C) The Board of Adjustment shall have no jurisdiction to grant an exception unless all three of the criteria in this section are met. At any time after granting such an exception the Board of Adjustment, after notice and hearing, may revoke the exception and require the junkyard owner to construct a fence in accordance with the requirements set forth in this section.

(D) The assembly in such enclosed place of motor vehicles of the type and character, as defined in § 117.020 of this chapter, shall be so arranged as to permit

reasonable access thereto by fire trucks and so as to permit access and inspection thereof by police or sanitation officers.

(E) If the enclosure is of wood construction, all motor vehicles therein and all accumulations of salvage materials therefrom shall not be deposited or piled within four feet thereof and in no event piled higher than seven feet, regardless of the materials used in the enclosure.

(F) No burning out of discarded or junked motor vehicles or materials therefrom shall be permitted within such enclosure or within the city.

(G) All gasoline, oil or other inflammable liquids shall be drained from such discarded or junked motor vehicles into leak-proof containers and shall not be permitted to drain on the ground or into open pits.

(2013 Code, § 17-128) (Ord. 14066, passed 8-24-1981; Ord. 14500, passed 3-13-1995) Penalty, see § 10.999

§ 117.022 LICENSE FEE.

The annual license fee for a motor vehicle junkyard shall be set by City Council resolution.

(2013 Code, § 17-129) (Ord. 14066, passed 8-24-1981)

§ 117.023 PERIOD FOR COMPLIANCE.

Any place operated which, under the definition as set forth in § 117.020 of this chapter, as a motor vehicle junkyard shall, within 90 days from and after the effective date of the ordinance (8-24-1981) from which these sections derive, conform to the terms and conditions of such sections or shall be abandoned and all junked automobiles or other materials therefrom shall be removed from such place within the time fixed in this section.

(2013 Code, § 17-130) (Ord. 14066, passed 8-24-1981) Penalty, see § 10.999

PAWNBROKERS

§ 117.035 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PAWNBROKER. Any person who loans money on deposit or pledge of personal property or other valuable thing or who deals in the purchasing of personal property or other valuable thing on condition of selling the property back again at a stipulated price or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

(2013 Code, § 17-136) (Ord. 14366, passed 11-25-1991)

§ 117.036 LICENSE REQUIRED.

(A) No person shall engage in the pawn business without first obtaining a pawnbroker license.

(B) All applicants for such licenses shall apply in writing to the City Clerk.

(C) All license applications shall contain the following information:

(1) The full name, residential address, business address, date of birth and Social Security number of the applicant and, where the applicant is a corporation or partnership, of the officers or partners;

(2) The name and address of the owner of the business premises;

(3) The business, occupation or employment of the applicant, including location thereof, for the two years immediately preceding the date of application; and

(4) The arrest record of the applicant and whether the applicant has ever been convicted of any crime, except simple misdemeanor traffic violations. If any person mentioned in this division (C)(4) has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction.

(2013 Code, § 17-137) (Ord. 14366, passed 11-25-1991)

§ 117.037 CRITERIA CONSIDERED FOR ISSUANCE OF LICENSE.

(A) (1) Upon receipt of a pawnbroker license application, the City Clerk shall forward a copy of the application to the Chief of Police who shall review the application.

(2) The applicant shall furnish such evidence as may reasonably be required in support of the statements set forth in the application.

(B) The Chief of Police shall report to the City Clerk within 30 days of receipt of the application considering, but not limited to, the following criteria:

(1) Whether the applicant or his or her agents or employees charged with receiving or distributing property has been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license and, if the Governor has restored such person's rights of citizenship, such conviction shall not be a bar to obtaining a pawnbroker license;

(2) Whether the applicant has truthfully reported all relevant facts within the pawnbroker application; and

(3) The applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the state and the city.

(2013 Code, § 17-138) (Ord. 14366, passed 11-25-1991)

§ 117.038 LICENSE ISSUANCE.

(A) Upon receipt of a positive police report and the appropriate fees, as set by Council resolution, the City Clerk shall approve the pawnbroker license application if the applicant has fully complied with all of the requirements of this subchapter, and the City Clerk shall thereupon issue a pawnbroker license to the applicant and forward a copy of such to the Chief of Police. The license shall expire on December 31 next after the date of issuance. The license shall state the name and place of residence of the person licensed, the business to be transacted and the place where it is to be carried on and the date of issuance and expiration of the license.

(B) If the City Clerk determines that the applicant for a new or renewal license has not fully complied with all of the requirements of this subchapter or that the Police Department returns a negative report or that the applicant has falsified his or her application, the City Clerk shall, after consultation with the Legal Department, advise the City Council of the basis for questioning the applicant's qualifications, and the procedures for notice and hearing as set forth in § 117.044 of this chapter shall apply. (2013 Code, § 17-139) (Ord. 14366, passed 11-25-1991)

§ 117.039 LICENSE FEE.

An applicant for a pawnbroker license shall submit a fee determined by Council resolution and shall retain 50% of the total fee to cover administration costs should the application be denied. (2013 Code, § 17-140) (Ord. 14366, passed 11-25-1991)

§ 117.040 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS.

Any person conducting several or separate pawn broking businesses shall pay the license fee and procure a license for each place, and any violations in one licensed premises shall be deemed violations in all premises licensed by that pawnbroker. (2013 Code, § 17-141) (Ord. 14366, passed 11-25-1991)

§ 117.041 LICENSE DISPLAY.

Every licensed pawnbroker shall display his or her license conspicuously in the business so that all persons entering the premises may readily observe it. (2013 Code, § 17-142) (Ord. 14366, passed 11-25-1991) Penalty, see § 10.999

§ 117.042 LICENSE SALE OR TRANSFER.

No pawnbroker license shall be sold or transferred. The purchaser of any pawnbroker business or of the majority of the stock of any corporation operating a pawnbroker business shall make application for and obtain a new license before operating such business at the location for which the license has been issued.

(2013 Code, § 17-143) (Ord. 14366, passed 11-25-1991) Penalty, see § 10.999

§ 117.043 LICENSE RENEWALS.

Every licensed pawnbroker shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid not less than 45 days prior to the expiration of the current license. (2013 Code, § 17-144) (Ord. 14366, passed 11-25-1991)

§ 117.044 LICENSE DENIAL, SUSPENSION OR REVOCATION.

(A) *Grounds.* A pawnbroker license may be denied, suspended or revoked for any violation of this subchapter, including, but not limited to, the failure to comply with new or renewal application procedures, a negative police report, falsification of a new or renewal application or for the failure to maintain records in conformity with the requirements enumerated under § 117.045(A) of this chapter.

(B) *Proceedings.* The City Clerk shall, upon receipt of information alleging that grounds exist to deny, suspend or revoke the pawnbroker license of any applicant or licensee under this subchapter and after consultation with the Legal Department, report the circumstances to the City Council, which in such case shall cause a notice to be sent by ordinary mail to the applicant or licensee. The notice shall state that a denial, suspension or revocation hearing has been set before the City Council; the grounds for the proposed denial, suspension or revocation; the date and time of the hearing; and the place where the hearing will be conducted. Upon such hearing, if the City Council shall determine that one or more of such grounds do exist, it may deny any application or suspend or revoke an existing license. A suspension shall constitute a minimum period of 14 calendar days to a maximum period of 30 calendar days during which period the licensee may not conduct any business except for redemptions and shall conspicuously post a sign stating the terms of the suspension at the entrance of the licensed premises. Such a sign shall be supplied by and posted by the Chief of Police. If such license is revoked, no pawnbroker license shall be issued to that licensee for a period of one year.

(2013 Code, § 17-145) (Ord. 14366, passed 11-25-1991)

§ 117.045 RECORDS; FAILURE TO MAINTAIN.

(A) The Police Department shall furnish pawn tickets to every pawnbroker licensee who shall accurately and legibly enter in ink in the English language the following information at the time of purchase or receipt of any property:

- (1) The date and hour of the transaction;
- (2) The amount paid, advanced or loaned for the article;
- (3) A detailed and accurate description of each article, separately listed;

(4) When applicable, the model number and/or serial number; and
(5) The name and address of the person from whom the property is purchased or received, his or her date of birth, driver's license number, state identification number or Social Security number, sex, age, height, race and type of photo identification presented.

(B) (1) When the pawn tickets are complete, the licensee shall surrender the original tickets to the Chief of Police the next business day, the originals to remain the property of the city. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction and a description of the article redeemed. If the property is disposed of other than by redemption and the value of the item is greater than \$20, as determined by the amount paid, advanced or loaned by the amount received when disposed of, or if the item has a serial number attached or any engraved or stamped identification number, the licensee shall record a description of the property, how disposed and the name and address to whom the article was transferred.

(2) Such redemption or sales records shall be maintained by the licensee for one year from the date of the transaction and shall be, at all times, open to examination and recordation by the Chief of Police.

(2013 Code, § 17-146)

(C) No licensee, his or her agents or employees shall fail to maintain or surrender or falsify, delete, alter, destroy or otherwise destroy any records required by this subchapter.

(2013 Code, § 17-147)

(Ord. 14366, passed 11-25-1991) Penalty, see § 10.999

§ 117.046 PROHIBITED ACTS.

(A) Under this subchapter, no licensee, his or her agents or employees purchasing or receiving any article of property shall:

(1) Receive any property without first viewing a form of identification containing a photograph of the person identified;

(2) Melt, alter, destroy, sell, remove from the licensed premises or otherwise dispose of such article, within 20 days after the receipt and report of any property is made as required by § 117.045 of this chapter, except upon written permission from the Chief of Police;

(3) Purchase or receive any property from any person under the age of 18 without his or her parent or guardian being present at the time of the transaction and without receiving their written consent, a copy of which must be submitted along with the records required by § 117.045 of this chapter;

(4) Purchase or receive any property or surrender any property from 7:00 p.m. to 7:00 a.m. Monday through Saturday, and 7:00 p.m. Saturday through 7:00 a.m. Monday;

(5) Conceal, secrete or destroy for the purpose of concealing any article purchased or received for the purpose of preventing identification;

(6) Deface, alter or remove any serial number or identifying marks from an article in his or her possession; and

(7) Take possession of defaced or altered property as described in division (A)(6) above.

(B) No article shall be redeemed from a pawnbroker until after 48 hours after the delivery to the Chief of Police of a copy of pawn tickets.

(2013 Code, § 17-148) (Ord. 14366, passed 11-25-1991) Penalty, see § 10.999

§ 117.047 SEARCH FOR STOLEN PROPERTY.

Whenever the Chief of Police or his or her designee has reason to believe that any licensee, his or her agents, or employees has possession of any stolen property on the licensed premises, he or she shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property. The Chief of Police, his or her agent or designees shall have the unlimited right to enter the licensed premises to examine same for the purposes of discovering stolen property or any violation of this section and no licensee, his or her agents or employees shall refuse, resist or attempt to prevent such entry.

(2013 Code, § 17-149) (Ord. 14366, passed 11-25-1991)

CHAPTER 118: PEDDLERS AND SOLICITORS

Section

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- 118.027 License fees
- 118.028 Transfer of license and limited use

118.999 Penalty

GENERAL PROVISIONS

§ 118.001 DEFINITIONS.

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

PEDDLER. Any person who sells or offers for sale for immediate delivery goods or merchandise from house-to-house, business-to-business or upon public property.

SOLICITOR. Any person who solicits or attempts to solicit from house-to-house, business-to-business or upon public property an order for goods, subscriptions or merchandise to be delivered at a future date.

SPECIAL COMMUNITY-WIDE EVENT. Any event or community celebration for which a public use permit under § 130.003 of this code for assemblies, parades and demonstrations has been issued.

TRANSIENT MERCHANT. Any person, firm or corporation who engages in a merchandising business from a mobile facility or vehicle at any parcel for a period of seven days or less during any calendar month.

(2013 Code, § 17-154) (Ord. 31, passed 8-14-1950; Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.002 LICENSE REQUIRED.

Unless otherwise excepted by other provisions of this subchapter, any peddler, solicitor or transient merchant operating within the city without first obtaining a license for such activity as herein provided, or operating in violation of the terms of the license, commits a simple misdemeanor subject to a fine.

(2013 Code, § 17-155) (Ord. 31, passed 8-14-1950; Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011) Penalty, see § 118.999

§ 118.003 CERTAIN EXEMPTIONS.

- (A) The following persons shall be excepted from the license requirement:
- (1) Newspaper carriers;
 - (2) Farmers and gardeners selling agricultural products they have grown; and
 - (3) Persons operating during special community-wide events, as defined herein.

(B) While excepted from the license fee requirement, authorized representatives of religious, non-profit and charitable organizations, or sponsors of a charitable event, desiring to solicit money or to distribute pertinent literature, must first submit in writing to the City Clerk for approval the name of such organization or sponsor and charitable purpose for which such activity is sought, the names and addresses of the officers and directors of the organization, satisfactory verification of its 501(c)(3) tax exempt status, specification of the dates and times during which such activities are to be conducted and of the amounts of any commissions, fees or wages which are to be charged in connection with the activity. Upon proper application by a bona fide charitable or religious organization, the City Clerk shall issue the applicable license containing the above information to the applicant free of charge, subject to the time limitations as set forth in this subchapter.
(2013 Code, § 17-155.1) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.004 LICENSE APPLICATION.

A written application shall be filed with the City Clerk for a license under this subchapter unless exempted under § 118.003 of this chapter. Such application shall set forth the applicant's name; permanent and local address; business address, if any; local and permanent telephone number; physical description of the applicant; and recent photograph. The application also shall set forth the applicant's employer, if any, and the employer's address, telephone number, the nature of the applicant's business, the last three places of such business. An applicant for a license shall also provide a copy of a current Department of Criminal Investigations (DCI) background check. The application shall also set forth the locations of activities and the length of time requested to be covered by the license and be accompanied by current written permission from any property owner upon whose property a transient merchant will be operating, or whose property (including parking) will be affected by the transient merchant's operation. Transient merchants shall also provide recent photographs of all sides of the mobile facility or vehicle which accurately depicts the current condition of the facility or vehicle, and upon request shall make the facility or vehicle available for visual inspection by the City Clerk or Clerk's designee at a reasonably convenient location.
(2013 Code, § 17-156) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.005 SALES TAX PERMIT REQUIRED.

Before a license is issued under provisions of this subchapter, the applicant for license shall submit to the City Clerk for inspection and copying a state sales tax permit when taxable items are intended to be sold.
(2013 Code, § 17-156.1) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.006 STATE FOOD LICENSE REQUIRED.

Before such license is issued under provisions of this subchapter, the applicant for license shall submit to the City Clerk a state food sales permit when applicable food items are intended to be sold.

(2013 Code, § 17-156.2) (Ord. 14886, passed 6-27-2011)

§ 118.007 LICENSE ISSUANCE.

If the City Clerk finds the application in conformity with the requirements of this subchapter, that all federal and state law requirements have been met, that the facts stated within the application are accurate, that the applicant has not committed a crime of violence, theft, fraud or dishonesty, other than simple misdemeanors, has committed no prior violations of this subchapter and is not a person required to register as a sex offender, the City Clerk shall issue a license upon payment of the applicable fee. The Clerk may rely upon the results of any routine background check without responsibility for verifying the accuracy of any information contained therein.

(2013 Code, § 17-157) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.008 PERMITTED LOCATIONS.

Peddler or solicitor licenses are issued for use in locations across the city without restrictions. Transient merchants are permitted to operate only on paved portions of private commercial property locations as identified on the application and or permit, for periods of seven days or less during any calendar month, unless otherwise restricted as specified in the license, or unless prior permission to operate in a city park has been obtained from the Parks and Recreation Department of the city.

(2013 Code, § 17-157.1) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011) Penalty, see § 118.999

§ 118.009 TIME RESTRICTIONS.

(A) Peddler or solicitor licenses allow peddling activities in residential area only between the hours of 9:00 a.m. and 9:00 p.m., with door knocking or door bell ringing prohibited all day on Sunday and after 6:00 p.m., Monday through Saturday.

(B) Transient merchant licenses issued for private commercial properties shall be allowed at all times, Sunday through Saturday, upon proper showing that the owner of the location where sales occur consents to use of its business premises for that purpose and that neither traffic or nearby residents will be adversely affected.

(C) The conduct of sales activity for any portion of any calendar day shall constitute a day of operation for determining the seven-day period specified in § 118.008 of this chapter.

(2013 Code, § 17-157.2) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011; Ord. 14932, passed 9-8-2014) Penalty, see § 118.999

§ 118.010 PERMITTED MOBILE FACILITIES OR VEHICLES.

(A) Mobile vendors shall operate only from facilities or vehicles which are structurally sound, in good repair and appearance, with no visible rust or damage. Adequate waste disposal receptacles shall be conveniently provided for customer use. No waste or garbage shall be allowed to accumulate on the exterior of the facility or vehicle. All grease shall be disposed of lawfully. Electrical connections shall be outdoor rated with functioning ground fault interrupters (GFIs) and no extension cords shall cross any sidewalk or public access.

(B) Electrical connections across any sidewalk or public access shall be made by proper underground wiring method in compliance with the National Electric Code (NEC).

(2013 Code, § 17-157.3) (Ord. 14886, passed 6-27-2011) Penalty, see § 118.999

§ 118.011 FEES.

Except as provided in § 118.003 of this chapter, every applicant for a license under this subchapter shall pay the fee, set by Council resolution, before a license shall be issued.

(2013 Code, § 17-158) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.012 LICENSE DISPLAY.

(A) Each solicitor or peddler shall, at all times while doing business in the city, keep in his or her possession and display upon request of any city official, peace officer or prospective customer, the license issued pursuant to this subchapter, and shall, upon the request of prospective customers, exhibit the license as evidence that they have complied with all requirements of this subchapter.

(B) Each transient merchant shall publicly and visibly display the license at its temporary place of business.

(C) Licenses issued to any entity under the provisions of this subchapter are not transferable in any situation and grants authority only to the entity filing the application.

(2013 Code, § 17-159) (Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

§ 118.013 LICENSE REVOCATION; RIGHT TO APPEAL.

(A) Notwithstanding § 110.002 of this chapter, if the licensee, in the application for the license or in the course of conducting his or her business, has made incorrect or fraudulent statements, or has conducted his or her business or activity in an unlawful manner, or violated an ordinance or statute, including placement of illegal signage, or if the licensee has conducted his or her business in such manner as to endanger the public welfare or safety, the City Clerk may revoke any license issued under this subchapter.

(2013 Code, § 17-160)

(B) The licensee may appeal the revocation of the license to the City Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the City Council. The City Council may affirm, modify or reverse its decision or the decision of the Clerk to revoke such license.

(2013 Code, § 17-160.1)

(Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

BANKRUPT STORES

§ 118.025 LICENSE REQUIRED.

Every person, firm or corporation engaged in the business of a peddler, transient merchant or in making sales from bankrupt stores shall, before engaging therein, procure a license therefor from the City Clerk.

(2013 Code, § 17-86) (Ord. 31, passed 8-14-1950) Penalty, see § 118.999

§ 118.026 ITEMS TO BE SUBMITTED WITH APPLICATION FOR LICENSE.

Before such license is issued under provisions of this subchapter, the applicant for license shall submit to the Mayor a sales permit from the state.

(2013 Code, § 17-87) (Ord. 8516, passed 7-13-1953)

§ 118.027 LICENSE FEES.

Fees for a license issued under this subchapter shall be determined by Council and set by resolution.

(2013 Code, § 17-90)

§ 118.028 TRANSFER OF LICENSE AND LIMITED USE.

No license provided for in this subchapter shall be transferred without the consent of the Mayor endorsed thereon in writing. No license issued under this

subchapter shall include more than one separate place and independent place of business of a transient merchant or bankrupt store or extend to or include more than one peddler under a single license.

(2013 Code, § 17-91) (Ord. 31, passed 8-14-1950)

§ 118.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) (1) Anyone violating any of the provisions of §§ 118.001 through 118.013 of this chapter shall, upon conviction, be subject to the penalties as provided in §§ 10.999(A) and (B) of this code of ordinances.

(2013 Code, § 17-161)

(2) Unless otherwise excepted by other provisions of §§ 118.001 through 118.013 of this chapter, any peddler, solicitor or transient merchant operating within the city without first obtaining a license for such activity as provided in § 118.002 of this chapter, or operating in violation of the terms of the license, commits a simple misdemeanor and is subject to § 10.999 of this code of ordinances.

(2013 Code, § 17-155)

(Ord. 31, passed 8-14-1950; Ord. 14884, passed 3-14-2011; Ord. 14886, passed 6-27-2011)

CHAPTER 119: PUBLIC SALES

Section

- 119.001 Definitions
- 119.002 License required
- 119.003 Clerk; powers and duties
- 119.004 License application; contents; investigation
- 119.005 Bond
- 119.006 License fees
- 119.007 License issuance
- 119.008 License period; renewal
- 119.009 Fraudulent or misleading advertising
- 119.010 Adding to stock of goods during sale or license period
- 119.011 License renewal
- 119.012 License revocation
- 119.013 License display; inspection; advertising; books and records
- 119.014 Exemptions
- 119.015 Violations

§ 119.001 DEFINITIONS.

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

ADVERTISING and **ADVERTISEMENT**. Includes the terms **PUBLISH** and **PUBLISHING** and means and includes any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by circular, by pamphlet, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement, by radio program, by recordings and/or any and all means including oral, written or printed.

GOING OUT OF BUSINESS SALE. The sale or an offer to sell at retail to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, moving, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised, either specifically or in substance, to be an adjustment sale, creditor's sale, trustee's sale, bankrupt sale, insolvent sale, insurance salvage sale, mortgage sale, assignee sale, adjustor's sale and the like, receiver's sale, loss of lease sale, forced out of business sale, going out of business sale, removal sale, and any and all sales advertised in such manner as to reasonably convey to the public that, upon the disposal of the stock of goods on hand, the business will cease and be discontinued at its existing location.

LICENSE. A license issued pursuant to this chapter.

LICENSEE. Any person to whom a license has been issued pursuant to this chapter.

PUBLISH and **PUBLISHING**. See **ADVERTISING**.

RESIDENT MERCHANT. A merchant who has maintained an established place of retail business within the city for the sale at retail of goods similar to those to be sold at the sale described in this chapter, for a continuous period of one year or more directly preceding the opening date of such sale.

TRANSIENT MERCHANT. Any merchant doing or contemplating doing business in the city and who does not come within the definition of a "resident merchant" in this section.

(2013 Code, § 17-193) (Ord. 10586, passed 5-11-1964)

§ 119.002 LICENSE REQUIRED.

No person shall publish or conduct any sale of the type defined in this chapter without a license therefore, duly issued in accordance with this chapter, and remaining in effect and unrevoked.

(2013 Code, § 17-194) (Ord. 10586, passed 5-11-1964) Penalty, see § 10.999

§ 119.003 CLERK; POWERS AND DUTIES.

The City Clerk is authorized and empowered to supervise or regulate sales or special sales, defined in § 119.001 of this chapter, to issue appropriate licenses therefor upon the proper application therefor as provided in this chapter, and to provide for the investigation of applications therefor and for the issuance of licenses thereon by the necessary officer.

(2013 Code, § 17-195) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998)

§ 119.004 LICENSE APPLICATION; CONTENTS; INVESTIGATION.

(A) Application for a license under this chapter shall be made in writing to the City Clerk in a form to be approved by the City Council and shall be verified by the applicant. Such application shall contain the following information:

- (1) A description of the place where such sale is to be held;
- (2) The nature of the occupancy, whether by ownership, lease or sublease;
- (3) The effective date of termination of such occupancy;
- (4) The means to be employed in publishing such sale;
- (5) The proposed language to be used in the advertisements to indicate the nature of the sale;
- (6) A statement of the intention of the applicant in holding such sale;
- (7) A statement in what manner such descriptive name is truthfully descriptive of such sale;
- (8) A statement as to whether or not any merchandise of any kind, quantity or description has been purchased by or delivered to the applicant for the purpose of being included in such sale; and
- (9) A statement that the applicant agrees not to purchase or accept delivery of any merchandise, goods or wares of any kind, nature or description to be sold at such sale after the date of the application.

(B) Upon receipt of such application and payment of the fee prescribed in this chapter, the City Clerk shall cause the application to be examined and investigated.
(2013 Code, § 17-196) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998)

§ 119.005 BOND.

Before the City Clerk shall issue a license under this chapter, the applicant shall execute and deliver to the city a bond in the penal sum of \$1,000 signed by such applicant and also signed by a surety company duly authorized to transact business in the state. This bond shall be conditioned upon the faithful observance of the provisions of this chapter and also conditioned to reimburse and indemnify any purchaser at any such sale, as provided for in this chapter, duly held by such licensee for any loss incurred or damage sustained by such purchaser by reason of misrepresentation or fraud in the sale of any such goods, wares or merchandise.

(2013 Code, § 17-197)

§ 119.006 LICENSE FEES.

Upon filing an original application or a renewal application for a license to advertise and conduct a sale as defined in this chapter, if the applicant is a resident merchant as defined, the applicant shall pay a license fee determined by Council resolution. If any application or renewal application is disapproved, one-half of the payment shall be forfeited to the city, as and for the cost of investigating the statements made in such application or renewal application. The license fee for each 30-day renewal period shall be one-half of the respective license fees described in this section. (2013 Code, § 17-198) (Ord. 10586, passed 5-11-1964)

§ 119.007 LICENSE ISSUANCE.

If, upon investigation, the facts as represented by the application for the license required under this subchapter are found to conform to the representations thereof, if the reason given for the sale is satisfactory, if there appears to have been no stockpiling of merchandise for the sale and there has been no fraud or deception in the application, and the advertisements proposed to be used truly represent such facts and are not fraudulent or misleading to the public, the City Clerk may issue a license permitting the publication and conduct of such sale. (2013 Code, § 17-199) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998)

§ 119.008 LICENSE PERIOD; RENEWAL.

(A) A license issued under this subchapter shall be for a period not exceeding 60 days. Upon satisfactory proof by the licensee that the stock on hand at the time of the original application has not been disposed of and upon proper application, the City Clerk shall cause the application to be examined and investigated. If satisfied as to the truth of the statements therein contained, the City Clerk may issue a renewal license for two consecutive periods of 30 days duration each upon payment of the prescribed renewal fees therefor.

(B) Upon the termination of such sale, no such license shall be issued to the applicant for the period of one year from such termination sale. (2013 Code, § 17-200) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998)

§ 119.009 FRAUDULENT OR MISLEADING ADVERTISING.

(A) Under this chapter, it shall be unlawful for a licensee to advertise or cause to be advertised goods, wares or merchandise for a sale, as defined in this chapter, which do not conform to the representations of the advertisement.

(B) It shall be unlawful for a licensee to publish or cause to be published advertising falsely representing the reason for such a sale.
(2013 Code, § 17-201) (Ord. 10586, passed 5-11-1964) Penalty, see § 10.999

§ 119.010 ADDING TO STOCK OF GOODS DURING SALE OR LICENSE PERIOD.

It shall be unlawful for any person publishing or conducting a sale under this chapter to purchase or add to the stock of goods offered for sale any goods during a sale or during the effective period of a license issued under this chapter or to sell any goods at such sale, except those on hand at the time of applying for the license.
(2013 Code, § 17-202) (Ord. 10586, passed 5-11-1964) Penalty, see § 10.999

§ 119.011 LICENSE RENEWAL.

(A) Any licensee, as defined in § 119.001 of this chapter, who desires a renewal license shall make application for such renewal license in writing to the City Clerk in a form to be approved by the City Council, which shall be verified by the licensee.

(B) Such application shall contain the following information as set forth in § 119.004 of this chapter, including:

(1) A statement as to whether or not any merchandise has been purchased by or delivered to the applicant for the purpose of being included in the sale and an approximate percentage of unsold merchandise; and

(2) A statement as to the proportion of the original inventory on hand at the time of commencing the sale that still remains on hand and unsold.
(2013 Code, § 17-203) (Ord. 10586, passed 5-11-1964)

§ 119.012 LICENSE REVOCATION.

If, at any time during a sale under provisions of this chapter, the City Clerk shall determine that any of the sections of this chapter or any of the statements in such license application were untrue or have been or are being violated by the applicant, the City Clerk may immediately revoke the license, and it shall thenceforth be unlawful for the applicant or licensee to continue such sale until a new license is issued in accordance with the terms of this chapter.
(2013 Code, § 17-204) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998) Penalty, see § 10.999

§ 119.013 LICENSE DISPLAY; INSPECTION; ADVERTISING; BOOKS AND RECORDS.

Upon recommencement of any sale, as defined in this chapter, the license issued by the City Clerk shall be permanently displayed near the entrance to the premises. A duplicate original of the application and stock list pursuant to which such license was issued shall, at all times, be available to the City Clerk or to the Inspector, and the licensee shall permit such inspector to examine all merchandise in the premises for comparison with such stock list at any and all times during the period of such sale. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued, and the wording of such advertisement shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words: "Sale held pursuant to Permit No. _____ of the City of Marshalltown, Iowa, granted the _____ day of _____, _____" and in such blank spaces shall be indicated the permit number and the requisite dates. Books and records of the sale shall be kept by the licensee and shall, at all times, be available to the Inspector.

(2013 Code, § 17-205) (Ord. 10586, passed 5-11-1964; Ord. 14609, passed 12-30-1998)

§ 119.014 EXEMPTIONS.

The provisions of this chapter shall not apply to or affect the following persons or sales:

- (A) Persons acting pursuant to an order or process of a court of competent jurisdiction;
- (B) Persons acting in accordance with their powers and duties as public officers, such as sheriffs, bailiffs or marshals;
- (C) Duly licensed auctioneers, selling at auctions; and
- (D) Executors, guardians, assignees of insolvent debtors, bankrupts and/or other persons required by law to sell such property.

(2013 Code, § 17-206) (Ord. 10586, passed 5-11-1964)

§ 119.015 VIOLATIONS.

Any applicant or licensee described in this chapter who shall violate, neglect or refuse to comply with any of the sections of this chapter or who shall make a false statement in any application for a license as required in this chapter shall, upon conviction thereof, be punished as provided in § 119.012 of this chapter and any license issued under this chapter shall be revoked.

(2013 Code, § 17-207) (Ord. 10586, passed 5-11-1964)

CHAPTER 120: TREE TRIMMERS

Section

120.001 Tree trimmer license required

120.002 Work performed

120.999 Penalty

§ 120.001 TREE TRIMMING LICENSE REQUIRED.

(A) It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street, park or private trees within the city without first applying for and procuring a license from the City Clerk. The license fee shall be set by Council resolution. However, a license shall not be required of any public service utility company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of insurance pursuant to § 10.009 of this code of ordinances.

(B) The license shall be further conditioned upon the permittee complying with all the pertinent sections of this code and other city ordinances relating to or in any way connected with the work to be done or contemplated to be done under such license including the payment of all fines against the licensee, his or her servants, agents, employees or subcontractors in connection with work done or contemplated under such permit.

(2013 Code, § 27-28) (Ord. 14429, passed 6-14-1993; Ord. 14609, passed 12-30-1998)

§ 120.002 WORK PERFORMED.

Work performed shall be in accordance with Chapter 58 of this code of ordinances.

§ 120.999 PENALTY.

Violation of any section of this chapter shall be deemed to be a municipal infraction and be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 27-30) (Ord. 14429, passed 6-14-1993; Ord. 14970, passed 11-27-2017)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. OFFENSES AGAINST PEACE AND SAFETY**
- 131. OFFENSES AGAINST PROPERTY**
- 132. OFFENSES AGAINST PERSONS**
- 133. OFFENSES CONCERNING MINORS**

CHAPTER 130: OFFENSES AGAINST PEACE AND SAFETY

Section

General Provisions

- 130.001 Unlawful assembly
- 130.002 Riot
- 130.003 Assemblies, parades and demonstrations; permits
- 130.004 Assembly interfering with lawful business, occupations; use of private property without consent
- 130.005 Driving motor scooter or similar vehicle upon public tennis court
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- 130.008 Spitting in police vehicles and buildings
- 130.009 Disorderly conduct
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- 130.011 Refusing signal of officer
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Drugs and Alcohol

- 130.030 Intoxication; open containers
- 130.031 Sniffing glue or other chemical substances
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Weapons

- 130.045 Trafficking in certain weapons
- 130.046 Displaying weapons

- 130.047 Slingshots
- 130.048 Hunting within city boundaries
- 130.049 Animals and fowl; killing, cleaning, butchering in public view
- 130.050 Firearms; discharge

- 130.999 Penalty

GENERAL PROVISIONS

§ 130.001 UNLAWFUL ASSEMBLY.

An **UNLAWFUL ASSEMBLY** is three or more persons assembled 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 a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such. (2013 Code, § 21-1) (Ord. 11806, passed 1-12-1971; Ord. 12455, passed 4-23-1974) Penalty, see § 130.999

Statutory reference:

Unlawful assembly, see I.C.A. § 723.2

§ 130.002 RIOT.

A **RIOT** is three or more persons assembled together in a violent manner, to the disturbance of others and with any use of unlawful force or violence by them or any of them against another person or causing property damage. No person shall willingly join in or remain a part of a riot, knowing or having reasonable grounds to believe that it is such.

(2013 Code, § 21-1.1) Penalty, see § 130.999

§ 130.003 ASSEMBLIES, PARADES AND DEMONSTRATIONS; PERMITS.

(A) **Required.** It is unlawful for any person to be or be concerned in or join or participate in any assembly, meeting, concert, procession or other exercise or display or demonstration upon any street, sidewalk or public ground or other public place without a written permit issued to one or more of the participants thereof by the Chief of Police.

(B) **Contents of application.** Any application for a permit shall state the following:

- (1) The name and address of the applicant;
- (2) The organization the applicant represents, if any;
- (3) The applicant's position in the organization and that the organization has authorized the applicant to make application in its behalf;

- (4) Whether or not the applicant or organization has ever been issued a permit before;
 - (5) The anticipated number of participants in the parade or demonstration;
 - (6) The exact location of the demonstration or the exact starting and ending points of the parade as well as the exact route to be followed;
 - (7) Exactly what provisions have been made for dispersal of the demonstration or parade, so such may be accomplished in a reasonable manner;
 - (8) What contingency plans exist to maintain order and to control the group, if any;
 - (9) The exact time the demonstration or parade is to commence and terminate;
 - (10) Devices or things that may produce noise, dirt, smoke, litter or odor and the applicant's means of limiting, controlling or removing such; and
 - (11) Such other and further information the Council may request.
- (C) *Conditions.* All such permits shall be issued on the express condition that all laws, statutes or ordinances be observed and obeyed and that all activities be organized, peaceful and controlled.
- (D) *Restrictions.*
- (1) The Chief of Police may put such reasonable restrictions that he or she may deem necessary to preserve peace and order or to promote traffic and pedestrian control and to generally protect the rights of others.
 - (2) The Chief of Police may bill for the use of equipment or overtime due to parades, assemblies or demonstration.
- (2013 Code, § 21-2) (Ord. 13149, passed 6-13-1977) Penalty, see § 130.999

§ 130.004 ASSEMBLY INTERFERING WITH LAWFUL BUSINESS, OCCUPATIONS; USE OF PRIVATE PROPERTY WITHOUT CONSENT.

It is unlawful for any person to assemble or congregate with others in such a manner and for the purpose of preventing or interfering with another's pursuit of a lawful occupation, public duty or the ordinary conduct of business, public or private, or for any persons, individually or collectively, to use another's property for any purpose without his or her consent.

(2013 Code, § 21-3) (Ord. 11806, passed 1-12-1971) Penalty, see § 130.999

§ 130.005 DRIVING MOTOR SCOOTER OR SIMILAR VEHICLE UPON PUBLIC TENNIS COURT.

It is unlawful to drive, propel or ride a motor scooter, scooter, bicycle, skate scooter, skates, coaster wagon or a similar wheeled contrivance upon any tennis court owned by the public or dedicated to public use.

(2013 Code, § 21-4) (Ord. 10665, passed 10-12-1964) Penalty, see § 130.999

§ 130.006 USE OF SKATEBOARDS, ROLLER BLADES AND LIKE INSTRUMENTS LIMITED.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS DISTRICTS OF THE CITY. For purposes of this section only, includes only the following streets: Main Street from 2nd Street to 3rd Avenue; 2nd Street from State Street to Church Street; 1st Street from State Street to Church Street; Center Street from State Street to Church Street; 1st Avenue from State Street to Church Street; 2nd Avenue from State Street to Church Street.

PUBLIC PLACE. Alleys, parking lots, buildings owned or occupied by the city, the Iowa Veterans Home and terraces or parkades adjacent to roadways.

SKATEBOARD (OR OTHER LIKE INSTRUMENT). Any non-motorized instrument used to transport a person by means of wheels or rollers propelled solely by the force of its rider and does not include any wagon or other device not so propelled.

(B) *Prohibited uses.*

(1) No person shall use, operate or permit the use or operation of any skateboard or like instrument on any sidewalk, parking lot or public place in the business districts of the city.

(2) No person shall use, operate or permit the use or operation of any skateboard or like instrument on any street in the city or at the Iowa Veterans Home.

(C) *Restricted use.*

(1) The use of any skateboard or other like instrument is permitted on all other sidewalks and in all other public places, except those mentioned in divisions (A) and (B) above, within the city.

(2) Provided, however, that, any person who shall use, operate or permit to be used or operated any such skateboard or like instrument shall do so in a careful and prudent manner and not in a manner so as to cause or be likely to cause danger or injury to any person or property.

(D) *Right-of-way.* The user or passenger of any such skateboard or like instrument shall give the right-of-way to any pedestrian, motor vehicle or any other user of the sidewalk or public place and shall not interfere with the proper use of any sidewalk or public place by any other person.

(2013 Code, § 21-4.1) (Ord. 13525, passed 4-9-1979; Ord. 14498, passed 2-27-1995) Penalty, see § 130.999

§ 130.007 CRIMINAL MISCHIEF.

Any damage, defacing, alteration or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act, which is prohibited. (2013 Code, § 21-5) (Ord. 10665, passed 10-12-1964; Ord. 10905, passed 5-11-1966) Penalty, see § 130.999

§ 130.008 SPITTING IN POLICE VEHICLES AND BUILDINGS.

It shall be unlawful for a person to spit within any police vehicle, public building or private building commonly open to the public, food establishment, restaurant, hotel, motel, motor inn, cocktail lounge or tavern.

(2013 Code, § 21-9) (Ord. 14423, passed 4-26-1993) Penalty, see § 130.999

§ 130.009 DISORDERLY CONDUCT.

A person commits a violation of this section when the person does any of the following:

(A) Engages 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 that is reasonably related to that sport;

(B) Makes loud and raucous noise or causes loud music in the vicinity of any residence or public building that causes unreasonable distress to the occupants thereof;

(C) Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another;

(D) Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly;

(E) By words or action initiates or circulates a report or warning of fire, epidemic or other catastrophe, knowing such report to be false or such warning to be baseless; and/or

(F) Without authority or justification, obstructs any street, sidewalk, highway or other public way, with the intent to prevent or hinder its lawful use by others.

(2013 Code, § 21-13) (Ord. 10877, passed 2-28-1966) Penalty, see § 130.999

§ 130.010 OBSTRUCTING PASSAGE.

It is unlawful to join any group or company of persons so as to obstruct the entrance to any building, sidewalk or stairway.

(2013 Code, § 21-33) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 130.011 REFUSING SIGNAL OF OFFICER.

It is unlawful to refuse, neglect or fail to obey the signal of any flag person on duty at a railroad crossing.

(2013 Code, § 21-36) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 130.012 LOUD NOISES; NOISES FROM SIRENS AND TIRES.

(A) No person shall operate any motor vehicle stereo (stereo, tape player, compact disc player, radio or any other sound amplification device) in a public place or on any public right-of-way that can be heard a distance of 50 feet or more from the motor vehicle stereo. The provisions of this division (A) may be enforced following personal observation or hearing, or both, of any police officer or upon receipt of a complaint made or filed with the Police Department by any person observing and hearing a violation. The City Administrator may grant a temporary variance to this division (A) to facilitate special events. The City Administrator is specifically authorized to revoke the grant variance if the applicant shall fail to meet any of the limitations placed upon the grant of the variance or other circumstances occurring subsequent to the grant of the variance requiring such revocation, or both.

(2013 Code, § 21-37)

(B) It is unlawful to use a siren on any vehicle, except an emergency vehicle, or to make an unreasonable loud noise by means of squealing tires on a vehicle.

(2013 Code, § 21-37.1)

(Ord. 14740, passed 7-12-2004; Ord. 14749, passed 11-8-2004; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

§ 130.013 PUBLIC OFFICIALS; HARASSMENT; IMPERSONATION.

(A) Any person who willfully prevents or attempts to prevent any public officer or employee from performing the officer's or employee's duty commits a violation of this division (A).

(2013 Code, § 21-38)

(B) Any person who falsely claims to be or assumes to act as an elected or appointed officer, magistrate, peace officer or person authorized to act on behalf of the state or any subdivision thereof, having no authority to do so, commits a violation of this division (B).

(2013 Code, § 21-39)

(Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. §§ 718.2 and 718.4

§ 130.014 DECEPTIVE ADVERTISING.

(A) The term **MATERIAL FACT**, as used in this section, does not include repairs of damage to or adjustments on or replacements of parts with new parts of otherwise new merchandise if the repairs, adjustments or replacements are made to achieve compliance with factory specifications and are made before sale of the merchandise at retail and the actual cost of any labor and parts charged to or performed by a retailer for any such repairs, adjustments and parts does not exceed \$300 or 10% of the actual cost to a retailer including freight of the merchandise, whichever is less; providing that, the seller posts in a conspicuous place notice that repairs, adjustments or replacements will be disclosed upon request. The exemption provided in this division

(A) does not apply to the concealment, suppression or omission of a material fact if the purchaser requests disclosure of any repair, adjustment or replacement.

(B) The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise or misrepresentation or the concealment, suppression or omission of a material fact with intent that others rely upon the concealment, suppression or omission, in connection with the lease, sale or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived or damaged, is an unlawful practice.

(C) It is **DECEPTIVE ADVERTISING**, within the meaning of this section, for a person to represent in connection with the lease, sale or advertisement of any merchandise that the advertised merchandise has certain performance characteristics, accessories, uses or benefits or that certain services are performed on behalf of clients or customers of that person if, at the time of the representation, no reasonable basis for the claim existed. The burden is on the person making the representation to demonstrate that a reasonable basis for the claim existed.

(D) A retailer who uses advertising for a product, other than a drug or other product claiming to have a health-related benefit or use, prepared by a supplier shall not be liable under this section unless the retailer: participated in the preparation of the advertisement; knew or should have known that the advertisement was deceptive, false or misleading; refused to withdraw the product from sales upon the request of the Attorney General pending a determination of whether the advertisement was deceptive, false or misleading; refused upon the request of the Attorney General to provide the name and address of the supplier; or refused to cooperate with the Attorney General in an action brought against the supplier under this section.

(2013 Code, § 21-47) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. § 714.16(2)(a)

§ 130.015 RADIO AND TELEVISION INTERFERENCE.

It is unlawful to use, operate or maintain or permit the use, operation or maintenance of any electrical machine, instrument, motor, appliance, device, fixture or accessory which causes radio or television interference or interference with radio or television reception by any radio or television receiving set, apparatus or appliance.

(2013 Code, § 21-48) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 130.016 INDECENT EXPOSURE.

A person who exposes the person's genitals or pubes to another not the person's spouse or who commits a sex act in the presence of or view of a third person commits a violation of this section, if the person:

(A) Does so to arouse or satisfy the sexual desires of either party; and/or

(B) Knows or reasonably should know that the act is offensive to the viewer.

(2013 Code, § 21-52) (Ord. 12787, passed 9-25-1975) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. § 709.9

§ 130.017 URINATING IN IMPROPER PLACES.

It shall be unlawful for any person to urinate in any place in the city, except where toilet facilities are provided for such purpose.

(2013 Code, § 21-52.1) (Ord. 14357, passed 9-23-1991; Ord. 14709, passed 3-24-2003; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

§ 130.018 FIREWORKS.

(A) The use of consumer fireworks and display fireworks within the city is prohibited, except as provided herein.

(B) The City Council may, upon application in writing, grant a permit for display fireworks when the Council is satisfied that the display fireworks will be handled by a competent operator with appropriate safeguards.

(C) It shall also be unlawful for any property owner, or any person in possession of a property, to knowingly permit the use of consumer fireworks or display fireworks on the owner's property within city limits in violation of this section.

(2013 Code, § 21-54) (Ord. 14971, passed 3-13-2018) Penalty, see § 130.999

§ 130.019 GARAGE SALES.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GARAGE SALE. The casual sale or offering for sale of personal property on residential premises in the city and includes a porch sale, yard sale, moving sale or any other sale that falls within the definition of this term. The term **GARAGE SALE** shall not mean a home occupation, as defined by Ch. 158 of this code of ordinances.

RESIDENTIAL PREMISES. Any zoning classification preceded by an "R".

(B) No person, firm or corporation shall conduct a garage sale for more than three days in any one month. A garage sale shall not follow a preceding garage sale unless seven days have elapsed between such sales. No person, firm or corporation shall permit or allow the personal property being offered for sale to remain visible from the street or from any other contiguous or adjoining property between the hours of 9:00 p.m. to 6:00 a.m. the following day. No person shall allow signs advertising garage sales to remain upon conclusion of the sale and no advertising signs shall be posted on city or other street or light poles.

(2013 Code, § 21-58) (Ord. 14138, passed 8-23-1982; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

DRUGS AND ALCOHOL

§ 130.030 INTOXICATION; OPEN CONTAINERS.

(A) *Intoxication; simulated intoxication in a public place.* It is unlawful and an offense against the peace and dignity of the city for any person to be intoxicated or simulate intoxication in a public place.

(2013 Code, § 21-10)

(B) *Open containers prohibited on public ways.*

(1) It shall be unlawful for any person to possess an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage on any public sidewalk, street, alley or parking lot, or within a motor vehicle.

(2) The Council shall have the power to grant exceptions to this division (B) for special events and activities. Exceptions may be granted after City Council review and approval by resolution.

(2013 Code, § 21-11.1)

(Ord. 14489, passed 1-19-1995; Ord. 14643, passed 2-14-2000; Ord. 14768, passed 8-22-2005; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

§ 130.031 SNIFFING GLUE OR OTHER CHEMICAL SUBSTANCES.

No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, smell or inhale the fumes from any model glue or cement, hair spray, spray paint, inhalers and other solvents or chemicals having the property of releasing toxic vapors.

(2013 Code, § 21-12) (Ord. 14424, passed 4-26-1993) Penalty, see § 130.999

§ 130.032 DRUG PARAPHERNALIA.

(A) *Purpose.* The purpose of this section is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia, as defined in this section.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTROLLED SUBSTANCE. The same as the term “controlled substance” is defined in I.C.A. Ch. 124, as amended.

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance.

PERSON. An individual, corporation, business, trust, estate, partnership or association or any other legal entity.

(C) *Possession prohibited.* It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, conceal, contain, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(D) *Manufacture, delivery or offering for sale prohibited.* It is unlawful for any person to deliver, possess with intent to deliver or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used or knowing or under circumstances where one reasonably should know it will be used or where one reasonably should know it will be used or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, conceal, contain, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

(E) *Exceptions.* The prohibition contained in this section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions, nor to common carriers or warehousemen or their employees engaged in lawful transportation of such paraphernalia, or to public officers or employees while engaged in the performance of their official duties, or to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

(2013 Code, § 21-12.5) (Ord. 14529, passed 3-25-1996; Ord. 14709, passed 3-24-2003; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

WEAPONS

§ 130.045 TRAFFICKING IN CERTAIN WEAPONS.

It is unlawful to sell, keep for sale or offer for sale or loan or give away any dirk, dagger, stiletto, metallic knuckles, sandbag, skull cracker or silencer; provided, however, that, this section shall not apply to hunting and fishing licenses.

(2013 Code, § 21-27) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Weapons generally, see I.C.A. Ch. 724

§ 130.046 DISPLAYING WEAPONS.

It is unlawful to display or cause to be displayed in any window facing a public street or alley any pistol, revolver, blackjack, slug, pocket billy, metallic knuckles, dagger, stiletto or Bowie knife, except war relics.

(2013 Code, § 21-30) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 130.047 SLINGSHOTS.

It shall be unlawful for any person, firm or corporation to sell or offer for sale, within the city, devices commonly known as slingshots that are designed as a sling to catapult or throw articles with force.

(2013 Code, § 21-31) (Ord. 73, passed 8-14-1950) Penalty, see § 130.999

§ 130.048 HUNTING WITHIN CITY BOUNDARIES.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HUNTING. Pursuing, killing, searching for, shooting at, stalking or lying in wait for any animal or bird, whether or not such animal or bird then is subsequently captured, killed or injured.

OCCUPIED STRUCTURE. Any building, structure or similar place adapted for overnight accommodation of persons; or utilized by persons for the purpose of carrying on business or other activity therein; or used by persons for the housing of livestock or animals; or used by persons for storage.

(B) *Offense of hunting within city limits with exceptions.* No person shall engage in hunting within the city limits, subject to the following exceptions.

(1) *A-1, Agricultural Reserve District.*

(a) Any person in lawful possession and control of real property zoned A-1 Agricultural Reserve District, or any person with the permission of any such possessor may engage in hunting, pursuant to the regulations provided in division (B)(1)(b) below, upon such real property in areas further than 200 yards of any occupied structure in the lawful possession of another. However, those areas zoned A-1 Agricultural Reserve 372 District, within the Nicholson-Ford Nature Area, shall be governed by the provisions of division (B)(2) below.

(b) The following regulations shall apply to hunting upon real property zoned A-1 Agricultural Reserve District, except within the Nicholson-Ford Nature Area.

1. No rifle, pistol or revolver shall be used for hunting.
2. No weapons other than shotguns, utilizing slug ammunition only or bow and arrow shall be used to hunt deer.

(2) *Nicholson-Ford Nature Area.*

(a) *City-owned area.* Any person in possession of a permit issued to the person by the city's Director of Parks and Recreation may engage in bow hunting only, for deer only, upon real property located within the Nicholson-Ford Nature Area or other properties designated for deer hunting by the city's Director of Parks and

Recreation, owned by the city. No weapon other than bow and arrow shall be used for deer hunting in such area. No game other than deer shall be hunted in such area. However, bow hunting is prohibited within 100 yards of any portion of the bicycle trail, within 100 yards of any portion of the levy and within 100 yards of any occupied structure located upon or outside the area. A permit issued under this division (B)(2)(a) does not entitle the permit holder to hunt in a Deer Management Area, as described in this section.

(b) *State-owned area.* Any person with the permission of an authorized agent of the state may engage in bow hunting only, for deer only, upon real property located within the Nicholson-Ford Nature Area owned by the state. No weapon other than bow and arrow shall be used for deer hunting in such area. No game other than deer shall be hunted in the area. However, bow hunting is prohibited within 100 yards of any portion of the bicycle trail, within 100 yards of any portion of the levy and within 100 yards of any occupied structure located upon or outside the area.

(3) *Deer Management Area.* Any person with a city deer hunting permit and the permission of the owner of the property where hunting will take place within the city's Deer Management Area, may engage in bow hunting, for deer only, within the allowed area. No game other than deer shall be hunted in the area.

(C) *Miscellaneous exceptions.* The provisions of this section shall not apply to lawfully designated law enforcement personnel and city employees performing official duties in the course of their employment, trappers conducting trapping operations pursuant to an independent contract with the city or employees of the animal rescue league acting within the scope of their employment.

(2013 Code, § 21-31.1) (Ord. 14409, passed 12-30-1992; Ord. 14575, passed 8-11-1997; Ord. 14787, passed 9-25-2006; Ord. 14854, passed 4-13-2009; Ord. 14970, passed 11-27-2017) Penalty, see § 130.999

§ 130.049 ANIMALS AND FOWL; KILLING, CLEANING, BUTCHERING IN PUBLIC VIEW.

(A) As used in this section, the term **ANIMAL** shall exclude mice, rats, snakes, fish, turtles, amphibians and insects. Also excluded are fowl for which hunting licenses or stamps are required.

(B) The slaughtering, butchering, cleaning, gutting and killing in public view of any animal or fowl not excluded in division (A) above is prohibited.

(2013 Code, § 21-31.2) (Ord. 14422, passed 4-26-1994) Penalty, see § 130.999

§ 130.050 FIREARMS; DISCHARGE.

It is unlawful for any person, except one in lawful defense of himself, herself or another, or in defense of his or her property, or a peace officer, including, but not limited to, the designated Animal Control Officer, in the performance of his or her duties, or at a licensed shooting gallery, or one in lawful possession and control of land used for agricultural purposes, when on such land, to fire off or discharge any cannon, gun, rifle

or other firearm within the city. However, nothing in this section shall apply to military organizations of the state or the United States in military funeral ceremonies or in firings conducted by education, sport or recreation organizations, including, but not limited to, organizers of competitive exhibitions or training events as provided for in § 90.020 of this code of ordinances, at scheduled periods, on an established range or at a scheduled event and under the supervision of a designated individual who is qualified to ensure that adequate safety precautions are established and observed.

(2013 Code, § 21-40) Penalty, see § 130.999

§ 130.999 PENALTY.

(A) Any person violating any provision of this general offenses code for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person violating the provisions of § 130.012(A) of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 21-37)

(C) Any person violating § 130.017 of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 21-52.1)

(D) (1) A violation of § 130.018 of this chapter shall be simple misdemeanor punishable by a fine of not less than \$250.

(2) Any person violating the provision of § 130.018(C) of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 21-54)

(E) Any violation of § 130.019 of this chapter shall be punished by a fine pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 21-58)

(F) Any person violating § 130.030(B) of this chapter shall, upon conviction, be fined pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 21-11.1)

(G) Any person violating § 130.032 of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 21-12.5)

(H) Any person violating § 130.048 of this chapter shall, upon conviction, be guilty of a simple misdemeanor, punishable by a fine pursuant to § 10.999(A) of this code of ordinances.

(2013 Code, § 21-31.1)

(Ord. 14138, passed 8-23-1982; Ord. 14357, passed 9-23-1991; Ord. 14409, passed 12-30-1992; Ord. 14489, passed 1-19-1995; Ord. 14529, passed 3-25-1996; Ord. 14575, passed 8-11-1997; Ord. 14643, passed 2-14-2000; Ord. 14709, passed 3-24-2003; Ord. 14768, passed 8-22-2005; Ord. 14787, passed 9-25-2006; Ord. 14854, passed 4-13-2009; Ord. 14970, passed 11-27-2017; Ord. 14971, passed 3-13-2018)

CHAPTER 131: OFFENSES AGAINST PROPERTY

Section

- 131.001 Theft
- 131.002 Tampering with, damaging or trespassing upon motor vehicle
- 131.003 Library materials and equipment
- 131.004 Trespass
- 131.005 Throwing missiles
- 131.006 Littering

§ 131.001 THEFT.

A person commits theft, which is prohibited, when the person does any of the following:

- (A) Takes possession or control of the property of another or property in the possession of another, with the intent to deprive the other thereof;
- (B) Misappropriates property which the person has in trust or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property or appropriates such property to the person's own use, when the owner of such property is known to the person. Failure by a bailee or lessee of personal property to return the property within 72 hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation;
- (C) Obtains the labor or services of another or a transfer of possession, control or ownership of the property of another or the beneficial use of property of another, by deception. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an inference that the goods or services were obtained by deception;
- (D) Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that the person is found in possession of property which has been stolen from two or more persons on separate occasions or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value shall be evidence from which the court or jury may infer that the person knew or believed that the property had been stolen;
- (E) Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party;
- (F) Makes, utters, draws, delivers or gives any check, share draft, draft or written order on any bank, credit union, person or corporation and obtains property, the use of property, including rental property, or service in exchange for such instrument, if

the person knows that such check, share draft, draft or written order will not be paid when presented. Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail or by personal service in the manner prescribed for serving original notices. Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation; and/or

(G) Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

(2013 Code, § 21-8) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 131.002 TAMPERING WITH, DAMAGING OR TRESPASSING UPON MOTOR VEHICLE.

It shall be unlawful to do or commit any of the following acts within the city limits:

(A) Willfully attempt to tamper with or tamper with any motor vehicle, or break or remove any part or parts of or from a motor vehicle without the consent of the owner;

(B) Climb upon or enter into any motor vehicle whether it is in motion or at rest and pilfer its contents or remove items of personal property therefrom;

(C) Climb upon or enter into any motor vehicle without the consent of the owner and commit any malicious mischief thereon whether it is in action or at rest; and/or

(D) Climb upon or enter into any motor vehicle without the owner's consent, whether it is in action or at rest, and manipulate any of the levers, starting mechanism, brakes or other mechanism or device of the motor vehicle.

(2013 Code, § 21-14) (Ord. 9751, passed 1-13-1959) Penalty, see § 130.999

§ 131.003 LIBRARY MATERIALS AND EQUIPMENT.

(A) The fact that a person has concealed library materials or equipment, as defined in I.C.A. § 702.22, or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or equipment or unpurchased property concealed upon the person or among the belongings of the person is material evidence of intent to deprive and, if the person conceals or causes to be concealed library materials or equipment or unpurchased property, upon the person or among the belongings of another, the finding of the concealed materials, equipment

or property is also material evidence of intent to deprive on the part of the person concealing the library materials, equipment or goods.

(B) The fact that a person fails to return library materials for two months or more after the date the person agreed to return the library materials or fails to return library equipment for one month or more after the date the person agreed to return the library equipment is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment. Notices stating the provisions of this section and I.C.A. § 808.12 with regard to library materials or equipment shall be posted in clear public view: in all public libraries; in all libraries of educational, historical or charitable institutions, organizations or societies; in all museums; and in all repositories of public records.

(C) After the expiration of three days following the due date, the owner of borrowed library equipment may request the assistance of a dispute resolution center, mediation center or appropriate law enforcement agency in recovering the equipment from the borrower.

(D) The owner of library equipment may require deposits by borrowers and, for late returns, the owner may impose graduated penalties of up to 25% of the value of the equipment, based upon the lateness of the return.

(E) For lost library materials or equipment, arrangements may be made to make a monetary settlement.

(2013 Code, § 21-45) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. § 714.5

§ 131.004 TRESPASS.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PROPERTY. Any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure, whether publicly or privately owned.

TRESPASS.

(a) One or more of the following acts:

1. 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; to use, remove therefrom, alter, damage, harass or place thereon or therein anything animate or inanimate; or to hunt, fish or trap on or in the property. This division (a)1. does not prohibit the unarmed pursuit of game or fur-bearing animals lawfully injured or killed which come to rest on or escape to the property of another;

2. 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 the agent or employee of 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;

3. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others; and/or

4. 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.

(b) The term **TRESPASS** shall not mean 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. The term **TRESPASS** does not mean the entering upon the right-of-way of a public road or highway.

(B) Any person committing a trespass commits a violation of this section. (2013 Code, § 21-49) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. § 716.7

§ 131.005 THROWING MISSILES.

It is unlawful to propel, drive or operate any missile, bomb, projectile or rocket, whereby any person may or shall be hurt or any window broken or other property damaged or destroyed or person injured. Discharging a BB gun or pellet gun within the city limits is also prohibited.

(2013 Code, § 21-51) (Ord. 75, passed 8-14-1950; Ord. 10665, passed 10-12-1964) Penalty, see § 130.999

§ 131.006 LITTERING.

(A) No person shall discard any litter onto or in any water or land of the city; 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.

(B) **LITTER** shall be defined to include, but not be limited to, any refuse or discarded item, including cans, bottles, trash or abandoned household items (e.g., used furniture, appliances, toys, implements, bicycles or the like).

(C) To enforce this provision, any police officer, the Public Housing Director or other city official designated by the Public Housing Director or the City Council, who shall find litter placed or stored in the open upon public property within the city, may cause such litter to be removed and shall issue written notice to the adjacent property owner at the address as reflected by the tax records of the County Auditor, by both regular and certified mail, that unless the litter is removed and all costs of removal and disposal incurred by the city are paid within 14 days of the date of mailing, the litter shall

be disposed of and the cost of removal and disposal will be imposed against the property owner by civil complaint.

(D) The written notice prescribed under division (C) above shall contain provisions that the person may appeal the imposition of the costs of removal and disposal by filing a written appeal with the City Clerk within ten days of the date the notice is mailed, which appeal shall then be scheduled for hearing and a decision rendered by the City Administrator or a designee of the City Administrator prior to the filing of a civil complaint.

(2013 Code, § 21-60) (Ord. 14642, passed 2-14-2000; Ord. 14894, passed 12-19-2011) Penalty, see § 130.999

CHAPTER 132: OFFENSES AGAINST PERSONS

Section

132.001 Window peeping

132.002 Assault

§ 132.001 WINDOW PEEPING.

It is unlawful to peep into the windows of the dwelling house or residence of another any time.

(2013 Code, § 21-22) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

§ 132.002 ASSAULT.

(A) A person commits an assault when, without justification, the person does any of the following:

(1) 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;

(2) Any act that is intended to place another in fear of immediate physical contact that will be painful, injurious, insulting or offensive, coupled with the apparent ability to execute the act; and/or

(3) Intentionally points any firearm toward another or displays in a threatening manner any dangerous weapon toward another.

(B) Where the person doing any of the acts enumerated in division (A) above and such other person are voluntary participants in a sport, social or other activity and does not create an unreasonable risk of serious injury or breach of the peace, the act shall not be an assault.

(C) Where the person doing any of the acts enumerated in division (A) above is employed by a school district or accredited non-public 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 shall not be 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.

(2013 Code, § 21-25) (Ord. 75, passed 8-14-1950) Penalty, see § 130.999

Statutory reference:

Similar provisions, see I.C.A. § 708.1

CHAPTER 133: OFFENSES CONCERNING MINORS

Section

- 133.001 Curfew; minors on streets; hours
- 133.002 Minors in pool and billiard rooms where alcoholic beverages sold
- 133.003 Selling cigarettes to minors; minors buying cigarettes
- 133.004 Minors pretending to be of age
- 133.005 Exhibiting persons

133.999 Penalty

§ 133.001 CURFEW; MINORS ON STREETS; HOURS.

(A) (1) *Minors under age 15 generally.* It shall be unlawful for any minor under the age of 15 years to be or remain in or upon any streets, alleys, public places, vacant lots or other unsupervised places in the city between the hours of 10:00 p.m. to 6:00 a.m. without reasonable cause, unless such minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor at the direction of the parents or the guardian.

(2) *Minors under age 18.*

(a) *Downtown area.* The downtown area is established as follows: that area included within the entire boundaries of the intersections of West Linn Street and South 3rd Street, north to and including the intersection of North 3rd Street and West State Street and east to and including the intersection of East State Street and North 3rd Avenue, south to and including the intersection of South 3rd Avenue and East Linn Street and west therefrom to the point of beginning. Within the downtown area, it shall be unlawful for any minor under the age of 18 years to be or remain in or upon any streets, alleys, public places, vacant lots or other unsupervised places in the city between the hours of 10:30 p.m. to 6:00 a.m., unless satisfying the exception set out in division (A)(3) below.

(b) *Non-downtown areas.* All other portions of the city are, by definition, to be considered outside of the downtown area, as defined in division

(A)(2)(a) above. In this other area, it shall be unlawful for any minor under the age of 18 years to be or remain in or upon any streets, alleys, public ways, vacant lots or other unsupervised places in the city between the hours of 11:00 p.m. to 6:00 a.m., unless satisfying the exception set out in division (A)(3) below.

(3) *Exceptions.* No minor shall be considered in violation of the curfew of the city if satisfying one or more of the following:

- (a) The minor is accompanied by a parent;
- (b) The minor is traveling to or returning from employment or a religious, political, economic or cultural assembly, and is journeying directly to such an activity or home, and not otherwise. This exception requires prior parental approval concerning such activity;
- (c) The minor is accompanied by a supervising adult who has been previously approved, for the purpose involved, by a parent;
- (d) The minor is an emancipated minor;
- (e) The minor is traveling interstate for a lawful purpose and with the consent of a parent; and/or
- (f) The minor is found on the public sidewalk between the street and the home of his or her parent or the home of one of the members of the group with whom the minor is socializing if the gathering is otherwise lawful.

(4) *Definitions.* For the purpose of this division (A), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMANCIPATED MINOR. A minor who no longer lives with a parent and is self- supporting.

MINOR. Any person under the age of 18 years.

PARENT. Biological parents, a guardian or custodian appointed by the courts or an adult who has accepted the role of a parent at the request of a biological parent, guardian or custodian.

(2013 Code, § 21-15)

(B) (1) It shall be unlawful for any parent, guardian or other person having the care and custody of a minor under the age of 21 years to permit such minor to violate the provisions of division (A) above.

(2) It shall not constitute a defense to this section that such parent, guardian or other person having the care and custody of a minor did not have knowledge of the presence of such minor in or upon any streets, alleys, public places, vacant lots or other unsupervised places in violation of division (A) above.

(2013 Code, § 21-16)

(Ord. 66, passed 8-14-1950; Ord. 14394, passed 10-12-1992; Ord. 14709, passed 3-25-2003; Ord. 14970, passed 11-27-2017) Penalty, see § 133.999

§ 133.002 MINORS IN POOL AND BILLIARD ROOMS WHERE ALCOHOLIC BEVERAGES SOLD.

(A) It shall be unlawful for any person to allow any person under 18 years of age to remain in any pool or billiard room or hall or to take part in any game known as

pool, billiards or pocket billiards, or any variation thereof, if either beer, wine, spirits, alcoholic liquor or alcoholic beverage of any kind is therein sold, served, dispensed or used or if gambling or any other violation of statute, provision of this code or other city ordinance therein takes place; but, otherwise, it shall be lawful to have and operate such a pool and/or billiard room and pocket billiard room as to persons and minors of all ages, whether the room is at, below or above ground level.

(B) In construing this section, a **POOL OR BILLIARD HALL OR ROOM** shall be limited to that portion of any building, room or premises actually occupied by pool or billiard tables and shall not include any part of the building, room or premises set apart or used exclusively as a barbershop or place for accommodation of patrons as a soda fountain or candy counter, even though such separate business or place is conducted within the same building, room or premises.

(2013 Code, § 21-17) (Ord. 75, passed 8-14-1950; Ord. 9801, passed 4-28-1959; Ord. 10478, passed 9-24-1963) Penalty, see § 133.999

§ 133.003 SELLING CIGARETTES TO MINORS; MINORS BUYING CIGARETTES.

It is unlawful for any person:

(A) To sell or give any cigarette or cigarette paper to any person under 18 years of age; and/or

(B) Under 18 years of age to buy, accept or receive from any merchant, dealer or place of business any cigarette or cigarette paper.

(2013 Code, § 21-19) (Ord. 75, passed 8-14-1950) Penalty, see § 133.999

§ 133.004 MINORS PRETENDING TO BE OF AGE.

It is unlawful for any person under the age of 18 years to represent, pretend or claim that he or she is 18 years of the age of or over, for the purpose of inducing or procuring any merchant or dealer to sell such person any cigarette or cigarette paper.

(2013 Code, § 21-20) (Ord. 75, passed 8-14-1950) Penalty, see § 133.999

§ 133.005 EXHIBITING PERSONS.

(A) A person shall not exhibit, place on exhibition or cause to be exhibited any person without the permission of the person exhibited or the person's parent or guardian.

(B) A parent or guardian of an exhibited person shall not receive compensation from the exhibition.

(2013 Code, § 21-21) (Ord. 75, passed 8-14-1950) Penalty, see § 133.999

Statutory reference:

Similar provisions, see I.C.A. § 727.10

§ 133.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) A minor who violates § 133.001(A) of this chapter shall be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 21-15) (Ord. 66, passed 8-14-1950; Ord. 14394, passed 10-12-1992; Ord. 14709, passed 3-25-2003; Ord. 14970, passed 11-27-2017)

TITLE XV: LAND USAGE

Chapter

- 150. PLANNING
- 151. BUILDING REGULATIONS; CONSTRUCTION
- 152. HOUSING CODE
- 153. PLUMBING CODE
- 154. ELECTRICITY
- 155. SWIMMING POOLS
- 156. ZONING

CHAPTER 150: PLANNING

Section

Plan and Zoning Commission

- 150.001 Creation
- 150.002 Membership; qualifications; holding other office
- 150.003 Appointment; terms of office; compensation
- 150.004 Organization
- 150.005 Vacancies
- 150.006 Rules and regulations; general powers
- 150.007 Annual report, budget, appropriations
- 150.008 Authority over subdivisions
- 150.009 Comprehensive Plan; preparation, purpose and adoption
- 150.010 Recommendations on zoning changes and districts

Cross-reference:

Officers and Organizations, see Ch. 31

Statutory reference:

Municipal zoning, see I.C.A. Ch. 414

Zoning commission, see I.C.A. § 414.6

PLAN AND ZONING COMMISSION

§ 150.001 CREATION.

Under the authority granted by state law, a City Plan and Zoning Commission is created possessing those powers as are provided by law.

(2013 Code, § 22-12) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.002 MEMBERSHIP; QUALIFICATIONS; HOLDING OTHER OFFICE.

The city's Plan and Zoning Commission shall consist of seven members, who shall be citizens of the city and shall be qualified by knowledge or experience to act in matters pertaining to the development of a city plan, and no member shall hold any elective office in the municipal government.

(2013 Code, § 22-13) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.003 APPOINTMENT; TERMS OF OFFICE; COMPENSATION.

(A) The members of the city's Plan and Zoning Commission shall be appointed by the Mayor, subject to approval by the City Council. The term of office of the members of the Commission shall be five years.

(2013 Code, § 22-14)

(B) All members of the Plan and Zoning Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the City Council.

(2013 Code, § 22-15)

(Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.004 ORGANIZATION.

The city's Plan and Zoning 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 his or her absence or disability.

(2013 Code, § 22-16) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.005 VACANCIES.

Any vacancy occurring in the membership of the Plan and Zoning Commission, for whatever reason, shall be filled by an appointment by the Mayor of a successor for the remainder of the term of the member where the vacancy exists, and such appointment shall be subject to the approval of the City Council.

(2013 Code, § 22-17) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.006 RULES AND REGULATIONS; GENERAL POWERS.

(A) The city's Plan and Zoning Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.
(2013 Code, § 22-18)

(B) The city's Plan and Zoning Commission shall have full power and authority to make or cause to be made such surveys, studies, maps, plans or charts of the whole or any portion of the city or of any land outside thereof, which, in the opinion of the Commission, bears relation to a Comprehensive Plan and, subject to the approval of the City Council, may publish its studies and recommendations.

(2013 Code, § 22-21)

(Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.007 ANNUAL REPORT, BUDGET, APPROPRIATIONS.

The City Council shall annually appropriate a sum of money from the General Fund for the payment of the expenses of the city's Plan and Zoning Commission.

(2013 Code, § 22-25) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.008 AUTHORITY OVER SUBDIVISIONS.

All plans, plats or replats of subdivisions or resubdivisions of land embraced in the city or adjacent thereto laid out in lots or plats with the streets, alleys or other portions of the subdivision or resubdivision intended to be dedicated to the public in the city shall first be submitted to the city's Plan and Zoning Commission and its recommendations obtained before approval by the City Council.

(2013 Code, § 22-28) (Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.009 COMPREHENSIVE PLAN; PREPARATION, PURPOSE AND ADOPTION.

(A) For the purpose of making a Comprehensive Plan for the physical development of the city, the city's Plan and Zoning Commission shall make careful and comprehensive studies of present conditions and future growth of the city and 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 environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development.

(2013 Code, § 22-30)

(B) (1) Before adopting a Comprehensive Plan, as referred to in division (A) above, or any part of it or any substantial amendment thereof, the city's Plan and

Zoning Commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the city not less than ten or more than 20 days before the date of hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the Commission carried by the affirmative vote of not less than two-thirds of the members of the Commission.

(2) After adoption of such plan by the Commission, an attested copy thereof shall be certified to the City Council, and the Council may approve the plan. When the plan or any modification or amendment thereof shall receive the approval of the Council, the plan, until subsequently modified or amended as authorized, shall constitute the official city plan.

(2013 Code, § 22-31)

(C) (1) When the Comprehensive Plan, as provided in this subchapter, has been adopted, no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Plan and Zoning Commission for its recommendation.

(2) If the Commission disapproves the proposed change, it may be adopted by the City Council only by the affirmative vote of at least three-fourths of the members of the Council.

(2013 Code, § 22-32)

(Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

§ 150.010 RECOMMENDATIONS ON ZONING CHANGES AND DISTRICTS.

(A) The city's Plan and Zoning Commission may, from time to time, recommend to the City Council changes in the zoning regulations or districts.

(2013 Code, § 22-33)

(B) (1) The city's Plan and Zoning Commission shall recommend the boundaries of the various original zoning districts and appropriate zoning regulations and restrictions to be enforced therein.

(2) In addition, the Commission shall make recommendations for amendments, supplements, changes and modifications of such regulations, restrictions and boundaries of districts and shall report to the City Council as provided by state law.

(2013 Code, § 22-34)

(C) When proposed changes in the zoning regulations or districts are referred to the city's Plan and Zoning Commission by the City Council, the Commission shall, within 30 days thereafter, file its recommendations approving, disapproving or modifying such proposed changes with the Council.

(2013 Code, § 22-35)

(Ord. 10324, passed 11-12-1962; Ord. 12490, passed 6-28-1974)

Statutory reference:

Zoning commission, see I.C.A. § 414.6

CHAPTER 151: BUILDING REGULATIONS; CONSTRUCTION

Marshalltown, IA Code of Ordinances

Section

Building Code

- 151.001 Adoption of Building Code
- 151.002 Amendments, modifications, additions and deletions to Building Code
- 151.003 Deletions and miscellaneous provisions

Moving Buildings

- 151.015 Permit required
- 151.016 Permit application
- 151.017 Insurance
- 151.018 Replacement of utility lines; approval
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- 151.020 Time limits
- 151.021 Removal of buildings remaining on streets in excess of five days
- 151.022 Disconnection of utilities
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- 151.024 Additional provisions

Dangerous Buildings

- 151.035 Purpose and scope
- 151.036 Definition
- 151.037 Procedures and rules
- 151.038 Service of notice and orders of Building Official
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- 151.040 Posting of signs
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- 151.055 Basic standards
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- 151.070 Baselines for commencement of numbering
- 151.071 Streets running north and south
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- 151.073 General numbering plan
- 151.074 North, south, east, west prefix designations
- 151.075 Responsibility of owner; specifications for numbers
- 151.076 Assignment of numbers; times for compliance; building permit
- 151.077 Director of Public Works/City Engineer
- 151.078 Complaints and objections
- 151.079 Notice to comply; assessment of costs

- 151.999 Penalty

BUILDING CODE

§ 151.001 ADOPTION OF BUILDING CODE.

(A) *Procedure approved.* An ordinance, proposing the adoption of a building code and following notice and hearing as required by law, was duly adopted and pursuant to published notice a public hearing was duly held.

(B) *Adoption of International Building Codes.* After following the procedure required by law and after due consideration the International Building Code (IBC), the International Residential Code (IRC) and the International Existing Building Code (IEBC) as published by the International Code Council, 2015 Editions are adopted in full as the Building Code and Building Ordinance of the city, except portions that are deleted, modified or amended by this subchapter. From the effective date of this subchapter, all building and construction shall be performed in accordance with the provisions of said code, as modified or amended by this subchapter.

(C) *Enforcement and penalty.* It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, move, remove, convert or demolish, occupy or maintain any building or structure in the city, or cause such to be done contrary to or in violation of any of the provisions of the Building Code. Any buildings or additions to any buildings erected or in the process of erection contrary to the provisions of the Building Code as amended shall, after notice and failure to comply, be deemed a nuisance and may be abated as such. (2013 Code, § 7-1) (Ord. 12392, passed 1-31-1974; Ord. 12416, passed 2-27-1974; Ord. 13312, passed 4-10-1978; Ord. 13933, passed 3-23-1981; Ord. 14183, passed 5-15-1984; Ord. 14230, passed 5-27-1986; Ord. 14374, passed 3-23-1992; Ord. 14534, passed 4-8-1996; Ord. 14648, passed 5-8-2000; Ord. 14803, passed 3-12-2007; Ord. 148984, passed 7-22-2019) Penalty, see § 151.999

§ 151.002 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS TO THE BUILDING CODE.

The following amendments, modifications, additions and deletions to the 2015 IBC and the 2015 IRC and the 2015 IEBC are made.

- (A) Section 101.1 Title is amended to read as follows:
These regulations shall be known as the Building Code of the City of Marshalltown, hereinafter referred to as "this code". Any reference to a Section number shall mean to this code unless stated otherwise.
- (B) Section 103.2 Appointment (IBC & IRC) are deleted.
- (C) Section 104.2 Applications and permits (IBC & IRC) is amended to read as follows:
The Building Official shall receive applications, review construction documents and issue permits for the erection and alteration of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.
 - 1. To obtain a permit the applicant shall first file:

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a) For the contractors required to be registered with the State of Iowa as a construction contractor, proof of registration must be presented to the Building Official or specified intergovernmental agency, if so designated by the Building Official.

b) All contractors requesting a building permit shall execute and file with the Marshalltown Building Official or specified intergovernmental agency, if so designated by the Building Official, a certificate of insurance written by a company authorized to transact business in the State of Iowa. Limits shall not be less than \$500,000.00 in personal injury or death and \$100,000.00 in property damage.

c) Certificate shall be written on a standard form and carrying an endorsement naming the City of Marshalltown, Iowa and its employees, or specified intergovernmental agency, if so designated by the Building Official, as additional insured, as its interest may appear and conditioned upon the faithful performance of all duties required of such contractor by any ordinances, rules, and regulations of the City. It shall be further a condition of said certificate of insurance, that the obligator will hold the City, or specified intergovernmental agency if so designated by the Building Official, harmless from any and all damages sustained by reason of neglect or incompetence on the part of such contractor, his/her agents or employees in the performance of the work done under a license or permit issued upon the filing of said certificate.

d) The certificate of insurance shall be issued by December 31st of each year, and shall be refilled on or before said date for each subsequent year and shall be continuous full force and effect. It is the intent and purpose of said certificate of insurance to also bind the individual, company, firm, association or partnership, whether it is trade name, corporation, or other business association or arrangement with which the principal is associated.

e) Homeowners working in their own principal residence shall be exempt from filing said certificate.

2. Where a person desires to remodel or repair any residential building or structure of which they are the owner or owner of record:

a) Such work may be done by a member of the household, without requiring the certificate of insurance otherwise required by this section.

b) Required permits shall be necessary for all remodel or repair work.

c) No owner or owner of record shall replace, remodel or repair any electrical or heating on any property that they are not the owner/occupant.

d) Plumbing in any building is required to be performed by a licensed plumbing contractor, licensed with the City of Marshalltown.

(D) Section 105.2 Work exempt from permit (IBC & IRC) is amended to read as follows:

Delete references to electrical, plumbing, gas, and mechanical in this section.

Permits shall not be required for the following exemption from the permit requirements of this code, which shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any laws or ordinances of this jurisdiction.

Building

a) One-story detached accessory buildings used as tool or storage sheds, playhouses and similar uses, provided the floor area is less than 120 square feet.

b) Fences not over 6 feet (1829 mm) sidewalks and driveways high.

c) Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.

d) Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2:1.

e) Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and not part of an accessory route.

f) Painting, papering, tiling, and carpeting.

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g) Prefabricated swimming pools that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18,925 L) and are installed entirely above ground.

h) Swings and other playground equipment accessory to a detached one and two family dwellings.

i) Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from an exterior wall and do not require additional support.

j) Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

(E) Section 105.8 (IBC) and R105.10 (IRC) Demolition permit required is added to read as follows:

A demolition permit shall be required for the removal of any building or structure, or the removal of any portion of a building.

(F) Section 109.2 (IBC) and Section R108.2 (IRC) Schedule of fees is amended to read as follows:

Permits shall not be issued until the fees, as set forth and established by resolution of the City Council, have been paid. An amended or supplemental permit for additional construction shall not be issued until the fee(s) for the additional work have been paid.

(G) Section 109.3 (IBC) and Section R108.3 (IRC) Building permit valuations is amended to read as follows:

The determination of value or valuations under any provision of this code shall be made by the Building Official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire extinguishing systems and any other permanent equipment. Valuations shall be established using square foot values with regional modifiers for the use and construction type most closely resembling those published by the International Code Council (ICC). Where no category resembles the proposed construction, a reasonable value will be assigned by the Building Official. The latest published valuations established by the ICC are hereby adopted and shall be reviewed and revised annually to incorporate newly published values. The Building Official shall correct the determination of value of work for which a permit is issued if such valuation appears to be in error or misstated. If the permit or plan review fees are reduced as a result of such correction, a refund may be issued to the applicant. If such fees are increased, the applicant shall pay all additional fees. Failure to pay such additional fees may result in revocation of any permit issued, or work stoppage as otherwise provided in this code.

(H) Section 109.6 (IBC) and Section R108.5 (IRC) Refunds is amended to read as follows:

The Building Official may authorize the refunding of any fee paid hereunder, which was erroneously paid or collected. The Building Code Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee, within one hundred eighty (180) days from the date of the fee payment.

(I) Section 109.4 (IBC) and Section R108.6 Work commencing before permit issuance is amended to read as follows:

Any person who commences work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to an investigation fee equal to the amount of the permit fee if the permit were issued. This fee shall be collected whether or not a permit is issued. The payment of such fee shall not exempt any person from compliance with all other provisions of this code or from any penalty prescribed by law. Only the Building Official may reduce this fee, when demonstrated that an emergency existed, which required the work to be done without a permit.

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(J) Section 113 (IBC) and Section R112 (IRC) Board of Appeals is amended to read as follows:

In order to determine the suitability of alternative materials and types of construction, and to provide for reasonable interpretation of all the provisions of this code, there shall be and hereby enacted a Board of Appeals consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall be an ex-officio member and shall act as Secretary of the Board. The Board of appeals shall be appointed by the Mayor, subject to the approval of the City Council, and said Board shall render a decision within thirty days from the time any matter is submitted to it. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The terms of each member shall be five years provided, however that the original appointments to the Board shall be as follows:

- a) One (1) member appointed for an initial one (1) year term.
- b) One (1) member appointed for an initial two (2) year term.
- c) One (1) member appointed for an initial three (3) year term.
- d) One (1) member appointed for an initial four (4) year term.
- e) One (1) member appointed for an initial five (5) year term.

The present existing Board shall continue under current appointments. The Board of Appeals shall have no authority relative to interpretation of the administrative portions of this code, nor shall the Board be empowered to waive requirements of this code.

(K) Section 116 (IBC) Unsafe structures and equipment is deleted in its entirety. Refer to Chapter 151, Building Regulations; Dangerous Buildings of the City of Marshalltown Code of Ordinances.

(L) Table R301.2 (1) (IRC) Climatic and geographic design criteria is amended to read as follows:

Ground Snow Load	30 PSF
Wind Speed	90 MPH
Seismic Design Category	A
Subject to Damage Weathering	Severe
Frost Line Depth	42" minimum
Termite	Moderate - Heavy
Decay	Slight- Moderate
Winter	- 5 degrees F
Ice Shield Underlay Req.	Yes
Flood Hazards	
NFIP	12/27/84
Firm Maps	04/17/84
Air Freeze Index	2500
Mean Annual Temp	48

(M) Section 308.6.4 (IBC) Five or fewer persons receiving care in a dwelling unit is amended to read as follows:

A facility such as the above within a dwelling unit and having eight or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

(N) Section 310.5 (IBC) Residential Group R-3 is amended to read as follows: Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

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- a) Buildings that do not contain more than two dwelling units.
- b) Boarding houses (nontransient) with 16 or fewer occupants.
- c) Boarding houses (transient) with 10 or fewer occupants.
- d) Care facilities as identified in Sections 308.3.4 or 308.4.2 that provide accommodations for five or fewer persons receiving care.
- e) Day care facilities as identified in section 308.6.4 located within single family dwellings with 8 or fewer persons receiving custodial care.
- f) Congregate living facilities (nontransient) with 16 or fewer occupants.
- g) Congregate living facilities (transient) with 10 or fewer occupants.
- h) Lodging houses with five or fewer guest rooms.

(O) Section 310.5.1 (IBC) Care facilities within a dwelling is amended to read as follows:

Care facilities that are located within a single-family dwelling are permitted to comply with the International Residential Code in accordance with this section.

(P) Section 310.5.1.1 (IBC) 24-hour care facilities within a dwelling is added as follows:

Care facilities as identified in sections 308.3.4 or 308.4.2 that provide accommodations for 5 or fewer persons receiving custodial care in a single-family dwelling for 24-hours per day are permitted to comply with the International Residential Code provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the International Residential Code.

(Q) Section 310.5.1.2 (IBC) Day care facilities within a dwelling is added as follows:

Day care facilities as identified in section 308.6.4 that provide custodial care for 8 or fewer persons for less than 24-hours per day in a single-family dwelling are permitted to comply with the International Residential Code.

Exception:

Day care facilities as identified in section 308.6.4 that provide custodial care for 16 or fewer persons for less than 24-hours per day in a single-family dwelling, and are registered with the State of Iowa Department of Human Services as child development homes on or before January 1, 2017, are permitted to comply with the International Residential Code.

(R) Section R403.1.4.1 (IRC) Frost protection is amended by deleting listed exceptions and inserting in lieu of the following:

Exceptions:

a) One story wood or metal frame building not used for human occupancy and not more than four hundred (400) square feet in floor area may be constructed with walls supported on a treated wood foundation plate when approved by the Building Official.

b) A one story detached wood frame building which is not used for human occupancy and does not exceed one thousand (1,000) square feet in area including additions, may be constructed upon four (4) inch wire reinforced concrete slab without frost footings. Reinforcement of the slab shall be a minimum 6 x 6 x 10 welded mesh wire, or #4 deformed reinforcing bars at twenty-four (24) inches on center either way.

(S) Section R404.1.1 (IRC) Design required is amended to read as follows:

1. The minimum height of the foundation wall shall be seven feet eight inches measured between the foundation plate and a concrete floor slab having a minimum thickness of three and one-half inches. If such floor slab is not provided, a specially designed means of providing lateral support at the bottom to the wall shall be required.
2. Hollow concrete masonry units shall be set in Type "M" or Type "S" mortar.
3. All footings shall be continuous cast in place concrete having a minimum compressive strength of 3,000 pounds per square inch at 28 days, and shall be reinforced longitudinally with not less than two one half inch diameter steel bar for one story of construction, and two one half inch diameter steel bars for two story construction.

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4. Footing reinforcement shall be symmetrically placed and so located as to ensure no less than three inches of concrete cover on all sides.

a. Foundation walls having a nominal thickness of not less than twelve inches may be unreinforced. Other foundation walls shall comply with the following requirements:

i. The nominal thickness of concrete masonry units shall not be less than eight inches.

ii. When a foundation wall has a horizontal clear span or more than twelve feet between supporting cross wall or corners, fully grouted vertical reinforcing shall be provided in the center of said wall in the amount of 0.075 square inches of ASTM A615 grade 40 steel per lineal foot of wall. All reinforcing steel shall be deformed bars spaced no more than eight feet on center. All grout shall comply with this code.

iii. Cast in place plain concrete foundation wall constructed under the provisions of this subsection shall be of concrete having a minimum compressive strength at 28 days of not less than 3,000 pounds per square inch. All materials, proportioning, and placing shall conform to the requirements of this code.

1. The minimum wall thickness shall be 7 ½ inches.

2. Walls shall be reinforced with no less three one-half inch diameter deformed ASTM A615 grade 40 steel bars placed horizontally at the corner wall, with one bar located at the top, one located near mid-height, and one located near the bottom. Vertical bars need to be placed no more than four foot on center.

3. Prior to backfilling operations the top and bottom of foundation walls shall be laterally supported.

4. Bottom lateral support may consist of one of the following:

a. A nominal two inch by four inch keyway may be formed into the footing.

b. 36 inch #4 rebar may be embedded into the footing at not more than four foot on center.

c. Minimum 3 ½ inch thick interior cast in place concrete floor slab.

(T) Section R405.1 (IRC) Foundation drainage is amended to read as follows:

1. Every building hereafter erected with a basement shall have a subsoil drainage system placed under the basement floor and surrounding the outer walls of the building, with the tile invert set a minimum of eight (8) inches below the elevation of the basement floor. Such subsoil drainage system shall discharge water therefrom into a receptacle inside the foundation wall. Such receptacle shall terminate at least twenty-four (24) inches below the bottom of the basement floor and shall be at least twenty-four (24) inches in diameter or twenty (20) inches square. Materials of the drainage system shall be made of open jointed, horizontally split, or perforated bituminized fiber, pipe, or perforated plastic pipe not less than four (4) inches in diameter. The receptacle of sump water shall be made of concrete pipe, plastic manufactured, or a material approved by the Building Official, and a sump pump of suitable capacity shall be provided.

2. Construction of the drainage system. Subsoil drainage tile shall be installed on stable soil with coarse gravel backfill, size ½ inch to 2 ½ inch, over tile or other material approved by the Building Official, and at least twelve (12) inches in depth. The joints of open tile shall be covered with an approved asphalt saturated felt paper. Backfill should be placed to the original soil wall, whichever is less, in no case less than twelve (12) inches.

3. Discharge of subsoil water collected by the subsoil drainage system shall be lifted by the use of a sump pump and shall be discharged outside of the foundation wall. The discharge pipe shall be a minimum of 1 ¼ inch rigid pipe. When subsoil drainage system is so installed as to provide natural drainage by gravity, the sump pump will not be required.

4. Required inspections. The Building Official, upon notification from the permit holder or his agent, shall make the following inspections and shall either approve the

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subsoil drainage system or shall notify the permit holder or his or her agent wherein the same fails to comply with this code. Subsoil drainage inspection shall be made before the excavated areas are covered. If subsoil drainage system is to be drained by natural gravity, the Building Official may require water to flow through the system as proof that said system is working properly. Subsoil water shall not drain into the sanitary sewer system.

5. Existing buildings. If subsoil water is present in existing buildings draining into the sanitary sewer, the City Engineer or the Superintendent of the Water Pollution Control Plant shall require such drainage system as may be deemed adequate to eliminate said water from draining into the sanitary sewer.

(U) Section 423.4 (IBC) Group E Occupancies adds the following exception:

4. Existing schools undergoing alterations, additions, or construction of new accessory buildings.

(V) Section 901.8 (IBC) Fire Sprinkler Riser Room is amended as follows:

A fire sprinkler riser room shall be separated from the electrical room. The riser room shall have no electrical panels, devices, or apparatus inside the room other than the outlets or support equipment (lighting, air compressor, and heater) required for the use of the fire sprinkler system and/or the fire alarm panel. The sprinkler riser room shall not be accessed from the electrical room, but the electrical room may be accessed from the fire riser room.

(W) Section 903.2.8.5 (IBC) & Section 313.2 (IRC) Group R One - and Two-Family Dwellings is added as follows:

An automatic residential fire sprinkler system shall be installed in one and two-family dwellings.

Exceptions:

1. An automatic fire sprinkler system shall not be required where additions or alterations are made to existing buildings that are not already provided with an automatic residential fire sprinkler system.

2. One and two-family dwellings containing less than eight thousand (8,000) square feet of floor space, excluding attached garages and other unenclosed areas.

(X) Section 903.4.2 (IBC) Alarms is amended as follows:

An approved weather proof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

(Y) Section 907.2.2 (IBC) Group B is amended as follows:

A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.

2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.

3. The Group B fire area contains an educational occupancy for students above the twelfth (12th) grade with an occupant load greater than 50 persons.

4. The fire area contains an ambulatory care facility.

(Z) Section 907.2.3 (IBC) Group E is amended as follows:

In the absence of a complete automatic sprinkler system, a complete automatic detection system utilizing an emergency voice/alarm communication system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke

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detection in any hazardous or non-occupied area utilizing an emergency voice/alarm communication system in compliance with Section 907.5.2.2 and installed in accordance with Section 907.6. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exception:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - a. Interior corridors are protected by smoke detectors with alarm verification.
 - b. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - c. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - d. Off-premises monitoring is provided.
 - e. The capability to activate the evacuation signal from a central point is provided.
 - f. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.
 - g. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification devices will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.
 - h. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

(AA) Section 910.2.1 (IBC) Group F-1 or S-1 is amended as follows:

Smoke and heat vents installed in accordance with Section 910.3 or a mechanical smoke removal system installed in accordance with Section 910.4 shall be installed in buildings and portions thereof used as a Group F-1 or S-1 occupancy having more than 30,000 square feet (2787 m²) of undivided area. In occupied portions of a building equipped throughout with an automatic sprinkler system in accordance with 903.3.1.1, where the upper surface of the story is not a roof assembly, a mechanical smoke removal system in accordance with Section 910.4 shall be installed.

Exception:

Group S-1 aircraft repair hangars.

(BB) Section 915.1 (IBC) Carbon monoxide general is amended as follows:

Carbon monoxide detection shall be installed in new and existing buildings in accordance with Sections 915.1.1 through 915.6 and Iowa Administrative Code 661-211.

(CC) Section 1008.3.1 (IBC) Emergency power general is amended as follows:

In the event of the power supply failure in rooms and spaces that require two or more means of egress or are more than 400 square feet or greater, an emergency electrical system shall automatically illuminate all of the following areas:

1. Aisles.
2. Corridors.
3. Exit access stairways and ramps.

(DD) Section 1008.3.2 (IBC) Buildings is amended as follows:

In the event of the power supply failure in rooms and spaces that require two or more means of egress or are more than 400 square feet or greater, an emergency electrical system shall automatically illuminate all of the following areas:

1. Interior exit access stairways and ramps.

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2. Interior and exterior exit stairways and ramps.
 3. Exit passageways.
 4. Vestibules and areas on the level of exit discharge used for exit discharge in accordance with Section 1028.1.
 5. Exterior landings as required by Section 1010.1.6 for exit doorways that lead directly to the exit discharge.
- (EE) Section 1009.2 (IBC) Continuity and components is amended as follows: Each required accessible means of egress shall be continuous to a public way and shall consist of one or more of the following:
1. Accessible route complying with Section 1104.
 2. Interior exit stairways complying with Sections 1009.3 and 1023.
 3. Exit access stairways complying with Section 1009.3 and 1019.3 or 1019.4.
 4. Exterior exit stairways complying with Sections 1009.3 and 1027 and serving levels other than the level of exit discharge.
 5. Elevators complying with Section 1009.4.
 6. Platform lifts complying with Section 1009.5.
 7. Horizontal exits complying with Section 1026.
 8. Ramps complying with Section 1012.
 9. Areas of refuge complying with Section 1009.6.
 10. Exterior areas for assisted rescue complying with Section 1009.7 serving exits at the level of exit discharge.
 11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.
- (FF) Section 1010.1.6 (IBC) Landings at doors is amended as follows: Landings shall have a width not less than the width of the stairway or door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, doors in any position shall not reduce the landing to less than one-half its required width. Landings shall have a length measured in the direction of travel of not less than 44 inches (1118 mm). For landings required by Section 1010.1.5 to be the same elevation on each side of the door, exterior landings shall be provided with frost protection.
- Exception:**
1. Landing length in the direction of travel in Groups R-3 and U and within individual units of Group R-2 need not exceed 36 inches (914 mm).
- (GG) Section 1010.1.6.1 (IBC) Frost protection at exterior landings is added as follows: Exterior landings at doors shall be provided with frost protection.
- (HH) Section 1010.1.9.1 (IBC) Hardware is amended as follows: Door handles, pulls, latches, locks, and operating devices on doors required to be accessible by Chapter 11 shall not require tight grasping, tight pinching or twisting of the wrist to operate. Thumb turn locks shall not be allowed.
- (II) Section 1013.1.1 (IBC) Additional exit signs is added as follows: Exit signs may be required at the discretion of the Code Official to clarify an exit or exit access.
- (JJ) Section 1028.6 (IBC) Exit discharge pathway is added as follows: Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.
- (KK) Section 1029.1.1 (IBC) Bleachers is amended as follows: Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with International Code Council (ICC) 300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2012 Edition, with the following amendments to ICC-300

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ICC-300 105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

ICC-300 501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

- (LL) Section 1030.5.3 (IBC) Window well drainage is added as follows:
All window wells shall be provided with approved drainage.
- (MM) Section 1608.2 (IBC) Ground snow load is amended to read as follows:
The ground snow load to be used in determining the design snow load for roofs is hereby established at thirty (30) pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof load may not be reduced to not less than eighty (80) percent of the ground snow load.
- (NN) Section 1809.5 (IBC) Frost protection is amended to read as follows:
Except where otherwise protected from frost, foundations and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:
 - a.) Extending below the frost line of the locality.
 - b.) Constructing in accordance with ASCE 32.
 - c.) Erecting on solid rock.

Exception: Free standing buildings meeting all of the following conditions shall not be required to be protected:

- a.) Detached garages, accessory to Group R-3 and R-3 occupancies and not meant for human occupancy.
- b.) 1,000 square feet or less in size and more than ten feet from a dwelling or attached garage may be provided with a floating slab which shall include a thickened slab edge of a minimum eight inches thick and tapered or squared from a width of six to 12 inches and have floors of Portland cement concrete not less than four inches thick.
- c.) Garage areas shall have all sod and debris removed before pouring.

(2013 Code, § 7-2) (Ord. 12392, passed 1-31-1974; Ord. 12889, passed 3-8-1976; Ord. 13169, passed 7-11-1977; Ord. 15312, passed 4-10-1978; Ord. 13933, passed 3-23-1981; Ord. 14183, passed 5-15-1984; Ord. 14230, passed 5-27-1986; Ord. 14338,

passed 11-26-1990; Ord. 14374, passed 3-23-1992; Ord. 14534, passed 4-8-1996; Ord. 14648, passed 5-8-2000; Ord. 14803, passed 3-12-2007; Ord. 14870, passed 3-17-2010; Ord. 14984, passed 7-22-2019)

§ 151.003 DELETIONS AND MISCELLANEOUS PROVISIONS.

(A) Delete in their entirety Chapters 27, 28 and 29 and all appendix chapters of the IBC.

(B) Delete all appendix chapters of the International Existing Building Code (IEBC).

(C) Delete any references of the International Plumbing Code and the International Electrical Code and substitute the Uniform Plumbing Code and the National Electrical Code.

(D) Copies of the IBC, IRC, and IEBC shall be kept available at the office of Building Official or library for public inspection.

(E) Structures existing prior to October 7, 1937, in which there is work involving additions, alterations or changes of occupancy, shall be made to conform to the requirements of the IBC (2015) and the IEBC (2015) as adopted by resolution of the City Council. This shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S, and U. These provisions shall not apply to buildings with occupancies in the Group H or I.

(F) It shall be unlawful for any person, firm, corporation to erect, construct, enlarge, alter, move, remove, convert or demolish, equip, use or maintain any building or structure in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this code.

(G) Any building or additions to any buildings erected or in the process of erection, contrary to the provisions of the Building Code as herein amended, shall after notice and failure to comply, be deemed a nuisance and may be abated as such.

(2013 Code, § 7-3) (Ord. 12392, passed 1-31-1974; Ord. 13312, passed 4-10-1978; Ord. 14803, passed 3-12-2007; Ord. 14984, passed 7-22-2019) Penalty, see § 151.999

MOVING BUILDINGS

§ 151.015 PERMIT REQUIRED.

It shall be unlawful to move any building or structure not upon wheels as part of its original equipment or construction and not subject to licensing by any public authority into, upon, along or over any street, alley, avenue or public ground in the city without first having obtained a permit therefor.

(2013 Code, § 7-17) (Ord. 10838, passed 12-17-1965) Penalty, see § 151.999

§ 151.016 PERMIT APPLICATION.

(A) (1) Application for a permit for the moving of any building or other structure, as provided in § 151.015 of this chapter, shall be made by the owner thereof to the City Clerk with the payment of a fee set by resolution.

(2) Such application shall be accompanied by the consent in writing of the owners of property abutting the sides of the lot or parcel of ground to which such building or structure is intended to be moved.

(2013 Code, § 7-18)

(B) As soon as possible after receipt of an application for a permit required by § 151.015 of this chapter, the City Clerk shall report the receipt of such application to the Director of Public Works, the Building Official and the Chief of Police.

(2013 Code, § 7-19)

(Ord. 10838, passed 12-17-1965; Ord. 14228, passed 4-14-1986)

§ 151.017 INSURANCE.

The moving of any building or structure under this subchapter shall be done and performed by a licensed building mover after presentation to the City Clerk of a certificate of insurance establishing liability insurance in the amount of \$500,000 for personal injury and property damage of \$100,000, which policy shall indemnify and hold the city harmless for all damages, claims and demands arising or growing out of or connected with the doing of any act or work covered or contemplated under the permit issued under this subchapter.

(2013 Code, § 7-20) (Ord. 10838, passed 12-17-1965; Ord. 14286, passed 2-27-1989)

§ 151.018 REPLACEMENT OF UTILITY LINES; APPROVAL.

The licensed building mover shall be responsible for the removal and replacement of any telephone, telegraph or electric light or power lines, and such licensed building mover or the applicant granted a permit shall pay all costs connected therewith. He or she shall also obtain the necessary or required permission from the state for moving such building or structure upon, across or along any primary road or highway.

(2013 Code, § 7-21) (Ord. 10838, passed 12-17-1965)

§ 151.019 SUPERVISION BY CITY ENGINEER.

The moving of any building or structure, as is provided in this subchapter, shall be under the direct supervision of the City Engineer, who is empowered to require the planking or other means of protecting any street paving, sidewalk or other public or private property from damage in connection with the moving of any such building or structure.

(2013 Code, § 7-22) (Ord. 10838, passed 12-17-1965)

§ 151.020 TIME LIMITS.

Any permit issued under this subchapter shall limit the time for the moving of any building or structure over the city streets and avenues, and the failure to accomplish such moving within the time limit provided in such permit shall be deemed a violation of this subchapter, and each additional day shall be considered a separate offense and shall be punishable accordingly.

(2013 Code, § 7-23) (Ord. 10838, passed 12-17-1965)

§ 151.021 REMOVAL OF BUILDINGS REMAINING ON STREETS IN EXCESS OF FIVE DAYS.

If the building mover willfully or unnecessarily allows any building to remain upon any street or alley for a period of time in excess of five days, the city shall remove the building, either with its own facilities or by a hired house mover, and any and all expense thereof shall be charged to the applicant and the house mover engaged by him or her and be collectible against the house mover.

(2013 Code, § 7-24) (Ord. 10838, passed 12-17-1965)

§ 151.022 DISCONNECTION OF UTILITIES.

The owner of any lot or parcel of ground from which a building or structure is being moved, if served with utilities at its old location, shall disconnect such utilities in accordance with the requirements set forth by each utility.

(2013 Code, § 7-25) (Ord. 10838, passed 12-17-1965)

§ 151.023 RIGHT OF CITY TO DENY APPLICATION.

The City Council may deny to an applicant the right to move any building or structure when it appears that there is no feasible route available for such moving or that the possible damage to the public streets or abutting city or private property will be substantially damaged or irreparable.

(2013 Code, § 7-26) (Ord. 10838, passed 12-17-1965)

§ 151.024 ADDITIONAL PROVISIONS.

This subchapter shall be in addition to the provisions of the Building Code and of Ch. 156 of this code of ordinances with the regard to the moving of any building or structure within the city.

(2013 Code, § 7-27) (Ord. 10838, passed 12-17-1965)

DANGEROUS BUILDINGS

§ 151.035 PURPOSE AND SCOPE.

It is the purpose of the provisions of this subchapter to provide a just, equitable, and practicable method whereby buildings and structures may be required to be repaired, removed, vacated, or demolished when the buildings or structures, from any cause, endanger the life, limb, health, morals, property, safety, or welfare of the general public or the occupants of the buildings. The provisions of this subchapter shall apply to all dangerous buildings, as defined in this subchapter, which are in existence or which may be constructed in this city. All buildings or structures, which are required to be repaired under the provisions of this subchapter, shall be subject to the provisions of the Building Code.

(2013 Code, § 7-30) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

§ 151.036 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS BUILDING. Any building or structure which has any or all of the following conditions or defects; provided that, such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered whenever:

(1) Any portion or member or appurtenance thereof is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property;

(2) Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(3) The building or structure or any portion thereof, because of dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building or portion thereof; the deterioration, decay or inadequacy of its foundations beyond repair; or any other cause, is likely to partially or completely collapse;

(4) For any reason, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is being used;

(5) The exterior walls or other vertical structural members list, lean or buckle more than two degrees or to an extent that upon inspection it is determined that the exterior walls or other vertical structural members are beyond repair or create an unsafe condition;

(6) The building or structure or any portion thereof has been so damaged by fire, wind, earthquake, flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance; to become a harbor for vagrants, criminals or immoral persons; to enable persons to resort thereto for the purpose of committing unlawful or immoral acts; or to create a haven for rodents, snakes and/or other vermin;

(7) A building or structure or portion thereof, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease;

(8) Any building or structure or portion thereof, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections, heating apparatus or any other cause, is determined by the Fire Marshal to be a fire hazard;

(9) Any portion of a building or structure remains on a site after the demolition or destruction of the building or structure, or any building or structure is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public;

(10) Any door, aisle, passageway, corridor, stairway, or other means of egress in is so warped, worn, loose, torn, or otherwise unsafe so it would not provide safe and adequate means of egress in case of fire or panic;

(11) Any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to an extent that the structural strength or stability thereof is materially less than it was before the catastrophe;

(12) Any building, structure, or portion thereof is in violation of this chapter so as to constitute such building, structure or portion thereof an unsafe condition; and

(13) Any building or structure is in a condition as to constitute a public nuisance or hazard.

(2013 Code, § 7-31) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

§ 151.037 PROCEDURES AND RULES.

(A) The Building Official or his or her designee is authorized to enforce the provisions of this subchapter.

(B) The Building Official or his or her designee are authorized to make such inspections and take such actions as may be required to enforce the provisions of this subchapter.

(C) (1) Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Building Official or his or her designee has reasonable cause to believe that there exists in any building or upon unsafe, dangerous, or hazardous conditions, the Building Official or his or her designee, upon presentation of proper credentials to the property owner and/or occupant, may enter such building or premises at all reasonable times to inspect the building or premises or

perform any duty imposed upon the Building Official or his or her designee by this code of ordinances. The Building Official or his or her designee may apply for an administrative search warrant to the Iowa District Court for Marshall County, pursuant to I.A.C. § 808.14. No owner or occupant or any other person having charge, care, or control of any building or premises shall fail or neglect, after presentation of a search warrant, to promptly permit entry therein by the Building Official or his or her designee for the purpose of inspection and examination pursuant to this subchapter. Any person violating this section shall be guilty of a municipal infraction.

(2) All buildings, structures, or portions thereof which are determined after inspection by the Building Official or his or her designee to be dangerous as defined in this subchapter are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal.

(D) The Building Official 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 subchapter, the Building Official shall give to the owner of such building or structure written notice stating the defects thereof and ordering the abatement of such defects ("Notice of Dangerous Building and Order to Abate"). This notice may require the owner or person in charge of the building or premises, within a reasonable time as the circumstances require, as determined by the Building Official in his or her discretion, to commence 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 the time provided in the notice. 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/or improvements are completed, inspected, and approved by the Building Official. Said notice shall also advise the property owner of the right to request a hearing before the Board of Appeals by filing a written request for hearing within ten days of the service of the notice and that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

(E) In an emergency, the city may abate a dangerous building without prior notice and assess the costs as provided in § 151.042 of this subchapter after notice to the property owner and hearing.

(2013 Code, § 7-32) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

Statutory reference:

Similar provisions, see I.A.C. §§ 364.12(3)(c) and 384.12(3)(h)

§ 151.038 SERVICE OF NOTICE AND ORDERS OF BUILDING OFFICIAL.

The notice in § 151.037 of this subchapter shall be served by certified mail or personal delivery to the property owner as shown by the records of the County Auditor. Nothing in this section shall be construed to prohibit the use of any other manner of service allowable under the Iowa Rules of Civil Procedure.

(2013 Code, § 7-33) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018) Penalty, see § 151.999

Statutory reference:

Similar provisions, see I.A.C. § 364.12(3)(h)

§ 151.039 APPEAL.

Any person entitled to service under § 151.037 of this subchapter may appeal from any notice and order or any action of the Building Official or his or her designee under this subchapter by filing a notice of appeal at the office of the Building Official on the form supplied for the filing purposes. The appeal shall be filed within ten days from the date of service of the order or action of the Building Official or his or her designee. Upon receipt of any appeal filed pursuant to this section, the Building Official or his or her designee shall present it to the Board of Appeals.

(A) As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place of hearing. Said hearing shall be not less than five days nor more than 20 days from the date the written notice of appeal is filed.

(B) Failure of any person to file an appeal in accordance with the provisions of this subchapter shall constitute a waiver of rights to an administrative hearing and adjudication of the notice and order or any portion thereof.

(C) Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

(D) After hearing all testimony, the Board of Appeals shall have 15 days to issue a decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. The decision shall be served on the appellant by certified mail, return receipt requested. (2013 Code, § 7-34) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

§ 151.040 POSTING OF SIGNS.

(A) The Building Official shall cause to be posted at each entrance to a dangerous building a notice reading:

DANGEROUS BUILDING DO NOT OCCUPY It is a misdemeanor infraction to occupy this building, or to remove or deface this notice. Building Official City of Marshalltown
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(B) Such notice shall remain posted until the required repairs, demolition or removal are completed. Such notice shall not be removed or defaced until the repairs, demolition or removal ordered by the Building Official have been completed, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the dangerous building.

(C) Failure to comply with this section shall be a municipal infraction, with each day the violation continues a separate offense.
(2013 Code, § 7-35) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)
Penalty, see § 151.999

§ 151.041 RIGHT TO ABATE.

If the property 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 city may perform the required action.

(2013 Code, § 7-36) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

Statutory reference:

Similar provisions, see I.A.C. § 364.12(3)(h)

§ 151.042 COSTS.

Any and all costs incurred pursuant to this subchapter, for the removal, repair, demolition, or dismantling of a dangerous building or structure from private property may be certified to the County Treasurer for property assessment and collection as taxes and/or the city may obtain a personal judgment against the property owner.
(2013 Code, § 7-37) (Ord. 14067, passed 8-24-1981; Ord. 14978, passed 9-10-2018)

PROPERTY MAINTENANCE

§ 151.055 BASIC STANDARDS.

(A) *Purpose.* The purpose of this subchapter is to ensure that all buildings regardless of use maintain basic minimum property maintenance standards creating a safe and healthy property and community.

(B) *Building maintenance.* Every building shall be maintained to be weather- and water-tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked or damaged shingles or siding; or other defects in the exterior finish, which admit rain, cold air, dampness, rodents, insects or vermin.

(C) *Exterior finishes.* Materials and practices used on exterior surfaces shall be of standard quality and appearance. Polystyrene board, tyvek and insulation board are not acceptable permanent surfaces.

(D) *Ground cover.* All non-farm property shall establish a permanent cover of perennial grasses or ornamental ground cover as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or

water. Acceptable ground cover shall also include permanent paving and structures as approved by city codes.

(E) *Fences and retaining walls.* All fences and retaining walls shall be structurally sound and free of leaning or loose elements or portions that may be considered deteriorating.

(F) *Piles.* Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction or siltation of drainage systems or to violate solid waste disposal regulations shall be prohibited.

(G) *Roofs and drainage.* Roofing construction must be of standard permanent materials. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof water shall not be discharged in a manner that creates a public nuisance.

(H) *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(I) *Doors.* All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door.

(2013 Code, § 21-100) (Ord. 14793, passed 1-8-2007)

§ 151.056 VIOLATION.

(A) The primary goal of the city is compliance. In an effort to get compliance with any of the requirements listed in this subchapter, the following is the procedure for enforcement actions undertaken pursuant to this subchapter.

(1) Notice of violation will be sent either by regular mail, certified mail or personal delivery to the title property owner listed by the County Assessor.

(2) A reasonable amount of time, to be determined by the authorized city representative, will be given to correct the violation.

(3) The title property owner may request an appeal to the notice of violation in accordance with provisions and procedures of § 95.006(B) and (C) of this code of ordinances, related to general nuisances.

(B) If the violation is not corrected in the specified time frame and the title property owner has not requested a written extension of time which extension has been granted by the city or has not filed a timely appeal as provided in division (A)(3) above, the city may pursue further or additional legal actions or remedies, including, but not limited to, those found in this code of ordinances.

(2013 Code, § 21-102) (Ord. 14793, passed 1-8-2007; Ord. 14920, passed 6-24-2013; Ord. 14970, passed 11-27-2017) Penalty, see § 151.999

BUILDING NUMBERING

§ 151.070 BASELINES FOR COMMENCEMENT OF NUMBERING.

Main Street and Center Street shall constitute the baselines from which the numbering of buildings from either side thereof shall commence.
(2013 Code, § 26-67) (Ord. 20, passed 8-14-1950)

§ 151.071 STREETS RUNNING NORTH AND SOUTH.

(A) North of Main Street, on all streets running north and south, the odd numbers shall be on the east side and the even numbers on the west side of such streets.

(B) South of Main Street, on all streets running north and south, the odd numbers shall be on the west side and the even numbers on the east side of such streets.
(2013 Code, § 26-68) (Ord. 20, passed 8-14-1950)

§ 151.072 STREETS RUNNING EAST AND WEST.

(A) East of Center Street, on all streets running east and west, the odd numbers shall be on the south side and the even numbers on the north side of such streets.

(B) West of Center Street, on all streets running east and west, the odd numbers shall be on the north side and the even numbers on the south side of such streets.
(2013 Code, § 26-69) (Ord. 20, passed 8-14-1950)

§ 151.073 GENERAL NUMBERING PLAN.

(A) The building numbers shall run, so far as practical, 100 to each block or the distance between two street intersections on the same street where this distance conforms substantially to the length of the average block. In a business district, the numbers shall be for each 20 feet. In a residence district, the numbers shall be for each unit of distance equal to the minimum frontage allowed in each respective zoning classification.

(B) The National Emergency Number Association's *Addressing Systems, A Training Guide For 9-1-1* shall be used as guide for establishing building numbers.

(C) New one-half numbers shall be not be issued.
(2013 Code, § 26-70) (Ord. 20, passed 8-14-1950)

§ 151.074 NORTH, SOUTH, EAST, WEST PREFIX DESIGNATIONS.

(A) *North and south.* The portions of all streets running north and south on the north side of Main Street shall be designated with the prefix “north”, and the portions of all streets running north and south on the south side of Main Street shall be designated with the prefix “south”.

(B) *East and west.* The portions of all streets running east and west on the east side of Center Street shall be designated with the prefix “east”, and the portions of all streets running east and west on the west side of Center Street shall be designated with the prefix “west”.

(2013 Code, § 26-71) (Ord. 20, passed 8-14-1950)

§ 151.075 RESPONSIBILITY OF OWNER; SPECIFICATIONS FOR NUMBERS.

(A) The owner and lessee of every building within the city, fronting on any public street, avenue or highway, shall cause the building to be numbered as provided in this section.

(B) New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) high with a minimum stroke width of one-half inch (12.7 mm). From 100 to 199 feet from the street, the number shall be a minimum of six inches high with a minimum stroke of one-half inch. From 200 to 299 feet from the street, the number shall be a minimum of eight inches high with a minimum stroke of one-half inch. For each additional 100 feet from the street, the number shall increase by an additional two inches in height. Measurements to determine the minimum number size shall be measured from the approved address location to the centerline of the street for which the premises is addressed.

(2013 Code, § 26-72) (Ord. 20, passed 8-14-1950; Ord. 14805, passed 4-9-2007)

§ 151.076 ASSIGNMENT OF NUMBERS; TIMES FOR COMPLIANCE; BUILDING PERMIT.

(A) Each property owner or lessee shall apply to the Director of Public Works/City Engineer and receive from him or her the number of the building of such person. When the Director of Public Works/City Engineer has assigned a number to a building, the owner or lessee thereof shall, within ten days, have such number fixed and displayed thereon as provided in this subchapter.

(2013 Code, § 26-73)

(B) Upon application for a building permit, the applicant shall ascertain from the Director of Public Works/City Engineer the correct number for the building for which the permit is to be issued and shall, within ten days after such building has been completed for use or occupancy, place the proper number upon the building.

(2013 Code, § 26-74)

(Ord. 20, passed 8-14-1950)

§ 151.077 DIRECTOR OF PUBLIC WORKS/CITY ENGINEER.

It shall be the duty of the Director of Public Works/City Engineer to see that the provisions of this subchapter are enforced and to designate the number to be assigned to each building. When he or she shall deem it desirable or necessary to change the number used for or assigned to any building, he or she shall designate and assign a new number therefor and shall mail or deliver to the owner or lessee of such building a notice thereof, and within ten days thereafter the number on such building shall be changed and displayed accordingly.

(2013 Code, § 26-75) (Ord. 20, passed 8-14-1950)

§ 151.078 COMPLAINTS AND OBJECTIONS.

If the owner or lessee of any building has any objection or complaint to the number assigned to any building or to the changing of any number under this subchapter, he or she shall file his or her complaint or objections in the office of the City Clerk within ten days after the number is assigned or within ten days after the notice is mailed or delivered as provided in this subchapter; otherwise, the action of the Director of Public Works/City Engineer shall be final, and if such complaint or objection is so filed the Council by resolution shall determine the complaint.

(2013 Code, § 26-76) (Ord. 20, passed 8-14-1950)

§ 151.079 NOTICE TO COMPLY; ASSESSMENT OF COSTS.

If the owner or lessee of any building shall fail, refuse or neglect to number or to renumber the building, the Director of Public Works/City Engineer may cause a notice to be given to comply with this subchapter within ten days, which notice may be given by one publication in a newspaper of general circulation in the city or by personal service of a written notice on the owner or lessee. If any building shall not have been properly numbered or renumbered within ten days after such publication or service, the Director of Public Works/City Engineer shall cause the numbering to be done, and the cost and expense of such numbering or renumbering shall be assessed against the property or premises numbered or renumbered and certified and collected in the manner provided for other special taxes.

(2013 Code, § 26-77) (Ord. 20, passed 8-14-1950)

§ 151.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.999 of this code of ordinances.

(B) Any person, firm or cooperation violating any of the provisions of the Building Code, as adopted in § 151.001 of this chapter, as amended, shall be guilty of a

simple misdemeanor. Violation of § 151.001 of this chapter shall also be a municipal infraction and punished subject to § 10.999 of this code of ordinances.

(2013 Code, § 7-1)

(C) A violation of the City Property Maintenance Code under §§ 151.055 and 151.056 of this chapter shall constitute a municipal infraction, as defined in I.C.A. § 364.22(2), subject to the penalties prescribed therein, as amended, and be punished by a civil penalty as provided in § 10.999(C) of this code of ordinances.

(2013 Code, § 21-102)

(Ord. 12392, passed 1-31-1974; Ord. 12416, passed 2-27-1974; Ord. 13312, passed 4-10-1978; Ord. 13933, passed 3-23-1981; Ord. 14183, passed 5-15-1984; Ord. 14230, passed 5-27-1986; Ord. 14374, passed 3-23-1992; Ord. 14534, passed 4-8-1996; Ord. 14648, passed 5-8-2000; Ord. 14793, passed 1-8-2007; Ord. 14803, passed 3-12-2007; Ord. 14920, passed 6-24-2013; Ord. 14970, passed 11-27-2017)

CHAPTER 152: HOUSING CODE

Section

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GENERAL PROVISIONS

§ 152.001 CITATION OF CHAPTER.

This chapter may be referred to as the “Housing Code of the City of Marshalltown, Iowa”.

(2013 Code, § 15.5-1) (Ord. 14437, passed 8-23-1993)

§ 152.002 ADOPTION OF HOUSING STANDARDS; STATEMENT OF PURPOSE.

(A) The city adopts by reference the housing quality standards promulgated by the United States Department of Housing and Urban Development, as set forth in the Federal Register, 12-29-1978, part VII, § 882.109, and as provided for by I.C.A. § 562A.15.

(B) The purpose of this chapter is to establish minimum health and safety standards for all rental housing in the city. These standards relate to the condition, maintenance and occupancy of all dwellings, except owner-occupied single-family dwellings, and are intended to ensure that all rental housing is safe, sanitary and suitable.

(C) If a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code of the city, existing on the effective date of the ordinance from which this chapter derives, the provision which establishes the highest standard for the practical promotion and protection of the health and safety of the people shall prevail.

(2013 Code, § 15.5-2) (Ord. 14437, passed 8-23-1993)

§ 152.003 APPLICATION.

This chapter applies to all rental dwelling units within the city, except: hotels, motels or buildings owned by the state or political subdivision thereof; state-licensed health and custodial facilities; and owner-occupied single-family dwellings.

(2013 Code, § 15.5-3) (Ord. 14437, passed 8-23-1993)

§ 152.004 DEFINITIONS; RULES OF CONSTRUCTION.

(A) *Meaning of certain words.* The term “dwelling”, “dwelling unit”, “rooming unit” or “premises” shall be construed as though they were followed by the phrase “or any part thereof”.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCEPTABLE or **APPROVED.** In compliance with the provisions of this chapter.

ACCESSORY STRUCTURE. A detached structure located on the same premises as the principal structure that is not used, nor intended to be used, for living or sleeping by human occupants.

ADJOINING GRADE. The elevation of the ground that extends three feet from the perimeter of the dwelling.

APPROVED. See **ACCEPTABLE**.

APPURTENANCE. That which is directly or indirectly connected or accessory to a building.

ATTIC. The part of a building immediately below the roof and wholly or partly within the roof framing and may or may not be habitable.

BASEMENT. A portion or story of a building, next below the first or main floor, which may or may not be considered habitable space.

BATH. A bathtub or shower stall connected with both hot and cold water lines.

BED AND BREAKFAST. See **BOARDING HOUSE**.

BOARDING HOUSE. Any structure or that part of a structure containing one or more rooming units or one or more dormitory rooms and further provides meals that are prepared and served at a central location.

BUILDING. Any structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals, chattels or property of any kind.

CELLAR. A space below the first or main floor, used or intended to be used for storage, a location for heating and building maintenance equipment and shall not be considered habitable space.

CENTRAL HEATING SYSTEM. A single system supplying heat to one or more dwelling units or more than one rooming unit.

CERTIFICATE OF COMPLIANCE. A document certifying that the unit for which it is issued was in compliance with the applicable sections of this chapter at the time of last inspection.

COMMUNAL. Used or shared by or intended to be used or shared by the occupants of two or more rooming units or two or more dwelling units.

CONDOMINIUM. A dwelling unit that is in compliance or conformance with the requirements of I.C.A. Ch. 499B.

COOPERATIVE. A dwelling unit that is in compliance or conformance with the requirements of I.C.A. Ch. 499A.

COURT. An unoccupied open space, other than a yard, on the same lot with a building and which is bordered on two or more sides by the building.

DINING ROOM. A habitable room used or intended to be used for the purpose of eating, but not for cooking or the preparation of meals.

DORMITORY. A room or group of rooms in a dwelling used or intended to be used for sleeping purposes by three or more persons per room.

DUPLEX. Any habitable structure containing two single-dwelling units. The classification shall be determined by the existence of two separate dwelling units, as defined in this chapter, and shall not be based upon the identity of the occupants.

DWELLING. Any building, structure or mobile home, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes any appurtenances attached thereto.

DWELLING, MULTIPLE. See **MULTIPLE DWELLING**.

DWELLING, SINGLE-FAMILY. See **SINGLE-FAMILY DWELLING**.

DWELLING UNIT. Any room or group of adjoining rooms located within a structure and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, eating and sanitation.

EGRESS. An exit and also means an alternate route that provides reasonable safety for emergency exiting.

EMERGENCY. A life or health threatening condition or failure within or around a residential premises which requires immediate attention; a condition arising from actual or imminent failure and resulting in a substantial health or safety hazard to occupants or in substantial hazard to a dwelling. Failure that can create an

EMERGENCY includes, but is not limited to, the following: structural collapse or failure; flood; fire; inflows of ground waters, drainage or surface waters; failure of a supplied utility such as electricity, gas, water, sewage, heat, but not cooling.

EXIT. A continuous and unobstructed means of egress to a public way and includes intervening doors, doorways, corridors, exterior-exit balconies, ramps, stairways, smoke-proof enclosures, horizontal exits, exit passageways, exit courts, walkways, sidewalks and yards.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the local or state authority having such administrative authority.

FAMILY. One or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who are occupying a dwelling unit as one housekeeping organization and also includes not more than five persons not so related, or not more than eight emotionally or developmentally disabled or brain damaged persons along with persons providing for their care and occupying a dwelling unit as one housekeeping organization. The term **FAMILY** may include domestic servants residing with the **FAMILY**.

GARBAGE. Animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food, including, but not limited to, food waste, plastic containers, tin cans, glass bottles and paper products.

GARBAGE CONTAINER. Any container that is in compliance or conformance with the requirements of Ch. 50 of this code of ordinances.

HABITABLE ROOM. A room or enclosed floor space within a dwelling unit or rooming unit, used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, kitchenettes, toilet rooms, pantries, laundries, foyers, communicating corridors, closets, storage spaces, stairways and recreation rooms.

HOUSING INSPECTOR. The official designated by the City Administrator with approval of the City Council to be responsible for the enforcement of this chapter and such other city employees, regardless of department, as have been trained in conducting inspections or parts of inspections.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests, in such quantities as would be considered unsanitary.

KITCHEN. A room used or intended to be used for the storage and preparation of food and may contain facilities for the eating of meals.

KITCHEN SINK. A basin for washing utensils used for cooking, eating and drinking, located in a kitchen or kitchenette and connected to both hot and cold water lines.

KITCHENETTE. An area used solely for the storage and preparation of food.

LAVATORY. A hand-washing basin connected to both hot and cold water lines, which is separate and distinct from a kitchen sink.

LIVING ROOM. A habitable room within a dwelling unit that is used or intended to be used primarily for general living purposes.

MOBILE HOME. 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.

MULTIPLE DWELLING. Any dwelling containing three or more dwelling units or three or more rooming units or three or more of any combination thereof.

OCCUPANT. Any person living in, sleeping in and/or cooking in or having actual possession of a dwelling unit or a rooming unit.

OPERATOR. Any person who is the agent of an owner who rents to another or has custody or control of a building or parts thereof in which dwelling units or rooming units are let or who has custody or control of the premises as a guardian, executor, receiver, administrator or other similar assignee.

OWNER. Any person who has custody and/or control of the dwelling, dwelling unit or rooming unit by virtue of legal or equitable title to such dwelling, dwelling unit or rooming unit.

PERSON. Any individual, firm, corporation, association, partnership, trust or estate.

PLACARD. A display document showing that the unit for which it is issued has been determined to be unfit for human habitation.

PLUMBING/MECHANICAL. Any or all of the following supplied or required facilities and equipment: gas pipes; gas-burning equipment; water pipes; garbage disposal units; waste pipes; toilets; sinks; lavatories; bathtubs; shower baths; water heating devices; catch basins; drains; vents and any other similar supplied or required fixtures, together with all connections to water, sewer or gas services.

PREMISES. A lot, plot or parcel of land including any buildings and/or accessory structures thereon.

PRIVACY. The existence of conditions that will permit a person to carry out an activity without interruption or interference by unwanted persons.

PROPERLY CONNECTED. Connected in accordance with the applicable city codes and ordinances; provided, however, that, the application of this definition shall not require the alteration or replacement of any connection in good and safe working condition.

PUBLIC WAY. Any sidewalk, street, alley, highway or other thoroughfare established for travel by vehicles or persons and open or available for use by the general public or private ownership.

RECREATION ROOM. A room used primarily for general recreation purposes. This room shall be in addition to the minimum space and facility requirements for a dwelling unit or rooming unit.

REFUSE. Waste material, except human or animal waste, such as garbage, rubbish, rags, lawn trimmings, cold ashes and dead animals.

REFUSE CONTAINER. A container intended for the temporary storage of refuse, which is constructed of a durable material, with at least one opening which is supplied with a tight-fitting cover, and is reasonably weather-proof and rodent-proof.

RENTAL PROPERTY. Any dwelling, dwelling unit or rooming unit which is being held out or being offered for rent or is currently being let for rent and/or occupied by any person who is not related to the owner of the premises, except, during the period that such rental property is being held out or offered for rent, all sections of this chapter shall be applicable relating to inspections, but the owner or operator of such property shall not be in violation of the other requirements of this chapter if the requirements are corrected prior to the rental and occupancy of the rental unit unless the violations are affecting the health, safety and welfare of the occupants of other rental units.

ROOMER. An occupant of a rental rooming unit or an occupant of a rental dwelling unit who is not a member of the family occupying the dwelling unit.

ROOMING UNIT. Any room or group of adjoining rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used primarily for living and sleeping. A **ROOMING UNIT** shall have bath and toilet facilities available for use by the occupants or for communal use in accordance with § 152.023 of this chapter and, in addition, may have kitchen and dining facilities provided within the building available for use by the occupants therein.

ROOMING HOUSE. Any structure or that part of any structure containing one or more rental rooming units or one or more dormitory rooms.

RUBBISH. Inorganic waste material consisting of combustible and/or non-combustible materials.

RULES AND REGULATIONS. Those administrative policies and procedures adopted by the Housing Code Administrator for the efficient and effective management of housing inspection functions.

SAFE. The condition of being reasonably free from danger and hazards that may cause accidents or disease.

SINGLE-FAMILY DWELLING. A structure containing one dwelling unit.

STORY. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above; except that, the topmost **STORY** shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six feet above grade, as defined in this chapter, for more than 50% of the total perimeter or is more than 12 feet above grade as defined in this chapter at any point, such basement or unused under-floor space shall be considered as a **STORY**.

SUBSTANDARD HOUSING. Any rental unit or portion thereof, including any dwelling unit, guestroom or suite of rooms or the premises on which such is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof:

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(a) Substandard conditions shall include, but not be limited to, the following:

1. Lack of or improper water closet, lavatory, bathtub or shower;
2. Lack of or improper kitchen sink;
3. Lack of hot and cold running water to plumbing fixtures;
4. Lack of adequate heating facilities;
5. Lack of or improper operation of required ventilating equipment;
6. Lack of minimum amounts of natural light and ventilation required by this chapter;
7. Room and space dimensions less than required by this chapter;
8. Lack of required electrical lighting;
9. Dampness of habitable rooms;
10. Infestation of insects, vermin or rodents as determined by the Health Officer;
11. General dilapidation or improper maintenance;
12. Lack of connection to the required sewage disposal system; and/or
13. Lack of adequate garbage and rubbish storage and removal facilities as determined by the Health Officer.

(b) Structural hazards shall include, but not be limited to, the following:

1. Deteriorated or inadequate foundations;
2. Defective or deteriorated flooring or floor supports;
3. Flooring or floor supports of insufficient size to carry imposed loads with safety;
4. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
5. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
6. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that sag, split or buckle due to defective material or deterioration;
7. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;
8. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration; and/or
9. Fireplaces or chimneys that are of insufficient size or strength to carry imposed loads with safety.

(c) **HAZARDOUS WIRING** shall mean all wiring, except that which conformed to all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

(d) **HAZARDOUS PLUMBING** shall mean all plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

(e) **HAZARDOUS MECHANICAL EQUIPMENT** shall mean all mechanical equipment, including vents, except that which conformed to all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.

(f) Faulty weather protection shall include, but not be limited to, the following:

1. Deteriorated, crumbling or loose plaster;
2. Deteriorated or ineffective water-proofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
3. Defective or lack of weather protection for exterior wall coverings including lack of paint, or weathering due to lack of paint or other approved protective covering; and/or
4. Broken, rotted, split or buckled exterior wall coverings.

(g) **FIRE HAZARD** shall mean any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department, is in such condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(h) **FAULTY MATERIALS OF CONSTRUCTION** shall mean all materials of construction except those which are specifically allowed or approved by this chapter and the Building Code and which have been adequately maintained in good and safe condition.

(i) **HAZARDOUS OR UNSANITARY PREMISES** shall mean those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, flammable or combustible materials and similar materials or conditions which constitute fire, health or safety hazards.

(j) **INADEQUATE MAINTENANCE** shall mean any building or portion thereof that is determined to be an unsafe building in accordance with the city's Building Code.

(k) **INADEQUATE EXITS** shall mean all buildings or portions thereof not provided with adequate exit facilities as required by this chapter, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition or any change in occupancy. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.

(l) **INADEQUATE FIRE PROTECTION OR FIREFIGHTING EQUIPMENT** shall mean all buildings or portions thereof which are not provided with the fire resistive construction or fire extinguishing systems or equipment required by this chapter, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire resistive integrity and fire

extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition or any change in occupancy.

(m) **IMPROPER OCCUPANCY** shall mean all buildings or portions thereof occupied for living, sleeping, cooking or dining purposes that were not designed or intended to be used for such occupancies.

SUPPLIED. Paid for, furnished by, provided by or under the control of the owner or operator.

TEMPORARY HOUSING. Any tent, trailer, motor home or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 days.

TOILET. A water closet, with a bowl and a trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl and which is equipped with a flushing rim.

VARIANCE. A difference between that which is required or specified and that which is permitted.

(2013 Code, § 15.5-4) (Ord. 14437, passed 8-23-1993)

§ 152.005 LETTER OF COMPLIANCE; APPLICATION; YEARLY REGISTRATION; FEES; INSPECTIONS; GRANT; DENIAL OR REVOCATION.

(A) *Application.*

(1) Application for a letter of compliance with this chapter shall be submitted in writing, on forms provided, to the Housing Inspector by the owner or operator who shall be required to provide all requested information, including, but not limited to, the following:

- (a) The address of the dwelling;
- (b) The number and type of dwelling units in the dwelling;
- (c) The zoning district in which the dwelling is located; and
- (d) The names, addresses and telephone numbers of the

following:

- 1. The owner; and
- 2. The operator, who must be one natural person living close enough to the city so as to conveniently act as agent or operator, or such other person with whom the Housing Inspector will communicate with respect to the dwelling unit and the requirements of this chapter.

(2) The failure of the applicant to provide any of the information required by division (A)(1) above may prevent the application from becoming effective for the purposes of this chapter, notwithstanding the payment of any fees.

(2013 Code, § 15.5-6)

(B) *Yearly registration.*

(1) The registration form for the letter of compliance with this chapter shall request an updating of at least the same information as required by division (A)

above and shall be submitted to the Housing Inspector prior to July 31 of each year or within 14 days of closure when acquiring residential rental property.

(2) The Housing Inspector shall mail a registration form to all registered residential property owners by July 1 of each year. The owner shall return the completed registration form to the Housing Inspector within 30 days of receipt of the form. Failure to complete or return the registration form shall result in a revocation of the letter of compliance or denial of the application for the letter of compliance and/or shall be cited as a municipal infraction.

(2013 Code, § 15.5-7)

(C) *Fees.* There shall be established annually a reasonable schedule of fees for the purpose of partially defraying the cost of inspection, enforcement and administration of the provisions of this chapter. The fee schedule and the times and methods for payment thereof shall be established by resolution of the City Council. Amounts due and payable under such schedule of fees shall constitute a debt owed to the city and may be enforced and collected as such. Failure or refusal to pay fees required shall also constitute a violation of this section.

(2013 Code, § 15.5-8)

(D) *Issuance of letter of compliance.* A letter of compliance issued for a dwelling unit shall be effective until there is a change in ownership or operation, unless sooner revoked pursuant to division (G) below.

(2013 Code, § 15.5-9)

(E) *Inspections.*

(1) The Housing Inspector shall arrange to inspect the dwelling by contacting the person designated as agent, pursuant to division (A)(1)(d) above, and requesting that person to set a time for the inspection.

(2) The operator shall arrange such inspection within a reasonable time, not to exceed two weeks from the date of the Housing Inspector's request for inspection. Failure of the operator to do so may result in denial or revocation of the letter of compliance.

(3) The operator or agent shall be present at the dwelling at the time set for inspection and shall accompany the Inspector during such inspection. The designee shall have access to the entire dwelling.

(4) The Housing Inspector shall conduct all inspections during reasonable hours of the day and after presentation of proper identification. The owner may arrange and the occupant shall have the opportunity to be present during an inspection; such arrangements to be made by the operator. Written application for a letter of compliance shall constitute consent by the owner to an inspection. Arrangements to enter shall be made with the occupant. In all cases, if the occupant or owner of a dwelling unit refuses entry to conduct an inspection, the Housing Inspector shall not conduct any such inspection without a search warrant.

(5) The Housing Inspector shall, whenever possible, inspect any dwelling at the request of the owner or upon receipt of a complaint from a person with demonstrable interest and evidence that the subject matter of the complaint has been reported to the operator. In addition, the Housing Inspector may, at the Housing Inspector's own discretion, inspect any dwelling as frequently as necessary. For the purposes of this division (E)(5), the following shall apply.

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(a) Persons with demonstrable interest are the owner, occupant or other occupant in the same dwelling; or the owner or occupant of other premises within 500 feet of the premises in question.

(b) A complaint shall be whatever is injurious to health, indecent or offensive to the senses or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life and property, as provided in the definition of the term "nuisance" in § 95.006 of this code of ordinances.

(c) The fact that a complaint of non-conformance with this chapter is made by the occupant shall not be used as a ground, cause or basis for termination of the tenancy or reduction of services by the owner.

(d) No person shall maintain an action for eviction of an occupant of property owned by such person when seeking to evict the occupant because the occupant has reported a violation of this chapter or a related section of the code to the Housing Officer or other city employees.

(e) If the Housing Officer requires an owner, operator or lessee to repair a dwelling unit, nothing in this section shall prohibit the latter from increasing the rent charged for the dwelling unit within 90 days from the completion of the required repairs. If the rent is increased within the 90-day period, an amount not less than the increased rent must be charged for the rental of such repaired dwelling unit for 12 consecutive months following the effective date of rent increase.

(f) No owner, operator, occupant or utility company shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling, dwelling unit or rooming unit, except for such temporary interruption as may be necessary, while actual repairs or alterations are in progress, or temporarily during emergencies. However, a utility company may remove, discontinue or shut off such service when such may be done in accordance with established policy of the respective company relating to credit regulations.

(6) During the course of an inspection, if the observations of the Housing Inspector suggest that an elevator is not in safe and operating condition, the Housing Inspector shall report such observations to the state's Labor Commissioner so an inspection may be conducted pursuant to I.C.A. Ch. 89A.

(7) Nothing contained in this section shall be interpreted or deemed to be a repeal, amendment, modification or dispensation of any housing standard or inspection requirement established by state laws.

(2013 Code, § 15.5-10)

(F) *Grant of letter of compliance.*

(1) If, after inspection, the dwelling is found to conform to the requirements of this chapter, the Housing Inspector shall issue a letter of compliance.

(2) At the final inspection of a rental unit after construction or remodeling requiring a building permit, the Building Inspector shall include the provisions of this chapter in the inspection, and if the dwelling unit conforms, the Inspector shall issue a letter of compliance. If dwelling units of a duplex or multiple dwelling are not all completed at the same time, the Housing Inspector may issue a letter of compliance for each dwelling unit conforming to the provisions of this chapter.

(3) A copy of the letter of compliance shall be available for inspection at the Inspection Office.

(4) The letter of compliance shall include at least the information contained in the application, the date of inspection, the name of the Inspector and the date of issue.

(5) For multiple dwellings, the Inspector may issue a letter of compliance for the entire dwelling that includes all the required information and that lists the address and maximum occupancy for each dwelling unit.

(2013 Code, § 15.5-11)

(G) *Denial or revocation of letter of compliance.*

(1) If after inspection a dwelling unit is found in non-conformance with the requirements of this chapter, the Housing Inspector shall promptly notify the operator in writing of the reasons for non-conformance and shall record the notice with the Housing Inspector's copy of the letter of compliance or application for the letter.

(2) Non-conformance shall be abated within 30 days or at the termination of any written agreement between the Housing Inspector and the owner.

(3) The operator may, within 30 days of the notice of non-conformance, enter into a written agreement with the Housing Inspector detailing a program to abate non-conformance requiring 30 or more days, during which time § 152.999 of this chapter shall be stayed.

(4) If the operator does not enter into an agreement under division (G)(3) above and if the dwelling unit is presently occupied, the Housing Inspector shall, within 30 days of the notification of non-conformance, notify the occupants of each affected dwelling unit by mail, addressed to "occupant", of the reasons for non-conformance, that eviction may be imminent and of the right to a hearing. However, failure of such occupants to receive such notice shall not bar proceedings to enforce any denial or revocation of the letter of compliance against the owner/operator.

(5) The owner/operator shall be entitled to one free re-inspection by the Housing Inspector to determine whether the terms of the agreement have been fulfilled.

(6) The tenant may, within two weeks of being notified of the non-conformance by the Housing Inspector, appeal to the Housing Appeal Board for permission to abate by repair and deduct. The appeal shall be granted if:

(a) The non-conformance was not caused by an occupant or other person on the premises with the consent of the occupant.

(b) The reasonable cost of abatement is less than \$500 or one month's rent, whichever is greater. The appeal shall include two written estimates from appropriate firms of the cost to abate, and the Appeal Board shall decide which estimate shall be accepted; or

(c) The operator has been notified in writing of the tenant's intention to appeal for repair and deduct. The tenant shall submit an itemized paid statement, with lien waivers from suppliers of materials and labor for the abatement, to the owner and deduct from the next rental payment, or bill the owner for the actual cost of the repair work or the amount specified in division (G)(6)(b) above, whichever is less.

(7) The letter of compliance shall be denied or revoked if:

(a) The owner/operator does not enter into an agreement with the Housing Inspector to abate the non-conformance, and the non-conformance has not been promptly abated;

(b) The dwelling unit is not in conformance at the end of the period specified by the inspector in the written agreement. However, the Inspector may extend the time specified in the agreement if, through no fault of the owner and despite good faith efforts to comply, the work has been delayed; or

(c) The Housing Inspector knows that the dwelling unit is in violation of Ch. 156 of this code of ordinances. This division (G)(7) shall not be construed to require the Housing Inspector to be knowledgeable of Ch. 156 of this code of ordinances.

(8) Upon denial or revocation of the letter of compliance, the Housing Inspector shall notify the operator and the occupants in writing.

(2013 Code, § 15.5-12)

(Ord. 14437, passed 8-23-1993)

§ 152.006 ABATEMENT OF OCCUPANT NON-COMPLIANCE.

(A) If after inspection the occupant is found in non-compliance with the requirements of this chapter, the Housing Inspector shall promptly notify the occupant and the operator of the reasons for non-conformance.

(B) If the occupant does not abate the non-compliance within a time set by the Housing Inspector, the Inspector may proceed against the occupant and, if the non-compliance is substantial, shall require abatement by the operator within a reasonable time, not to exceed 30 days, unless the owner enters into a written agreement for additional time for abatement. The operator may assess the reasonable cost thereof to the occupant plus the costs of additional inspection.

(C) The dwelling unit shall be provided one free inspection by the Housing Inspector to determine whether the non-compliance has been abated.

(2013 Code, § 15.5-13) (Ord. 14437, passed 8-23-1993)

§ 152.007 EMERGENCY ABATEMENT.

(A) If an emergency seems to exist under this chapter and the occupant cannot obtain prompt relief from the operator, the occupant or other person may ask the Housing Inspector to find that an emergency does exist that constitutes a substantial hazard to the occupant's health and safety.

(B) If the Housing Inspector finds that such an emergency exists and that the owner or operator will not or cannot within a reasonable time abate the emergency and that the emergency can be readily abated, the Housing Inspector shall cause abatement and shall notify the owner by certified mail of the actions taken, the cost to be assessed, and the owner's right to appeal under § 152.008(C) of this chapter.

(C) If the Housing Inspector finds that an emergency exists that cannot be readily and reasonably abated, the letter of compliance shall be immediately revoked or the application immediately denied.

(D) If no emergency is found to exist, yet there is non-compliance, the Housing Inspector shall proceed under § 152.005(F) of this chapter.
(2013 Code, § 15.5-14) (Ord. 14437, passed 8-23-1993)

§ 152.008 HOUSING ADVISORY BOARD.

(A) *Creation.*

(1) There is established a board, known as the Housing Advisory Board, which shall consist of six members, at least four of whom are qualified by experience and training to pass upon matters pertaining to Housing Code enforcement. Members shall be appointed by the Mayor and confirmed by the City Council and shall serve without compensation.

(2) From and after the effective date of the ordinance codified herein, only persons holding the particular qualifications of division (A)(4) below shall be appointed to the Housing Advisory Board, as membership vacancies appear, until the Housing Advisory Board membership fully conforms to the requirements of such division.

(3) Any three members shall constitute a quorum.

(4) The Housing Advisory Board shall consist of the following separate persons: one state-licensed realtor; one state-registered architect or engineer; one contractor experienced in remodeling; one lending institution representative; and two representatives of the general public, one of whom shall be a landlord. Each Board member shall have had at least five years' experience in his or her respective field.

(5) If the death, removal for just cause or resignation of any member occurs, that member's successor shall be appointed to serve for the unexpired period of the term of the member no longer serving.

(2013 Code, § 15.5-15)

(B) *Duties.* The Housing Advisory Board shall:

(1) Hold hearings when necessary and issue specific recommendations to the City Council;

(2) From time to time render to the City Council a written report of its activities and general recommendations;

(3) Adopt such rules and regulations as may be necessary to expedite and effectuate the provisions of this chapter;

(4) Annually elect a chair from among them to act as an administrative officer and to sit at meetings and hearings as presiding officer; and

(5) Have authority to grant variances to this chapter pursuant to division (G) below.

(2013 Code, § 15.5-16)

(C) *Complaints filed.*

(1) Any person claiming to be aggrieved by any notice served upon that person under this chapter may file with the Housing Officer a written complaint,

requesting a hearing before the Housing Advisory Board; such complaint shall be accompanied by a receipt from the City Clerk for the non-refundable filing fee in the amount set therefor by resolution of the City Council. A complaint must be filed within ten days after a person receives a notice. All notices served under this chapter shall advise the persons served of their opportunity to be heard, the manner in which complaints under this section are to be filed, the amount of the filing fee set by the City Council, that they have the right to produce witnesses in their own behalf, and that they have the right to be represented by counsel.

(2) In addition to the non-refundable filing fee, any person requesting a hearing shall pay a deposit of \$100 with the City Clerk. If the person requesting the hearing fails to appear at the time and date scheduled for the hearing, the deposit of \$100 shall be forfeited to the city. If the requesting party appears at the hearing, the deposit of \$100 shall be returned to the person who made the original payment. The deposit shall not be forfeited if the person requesting the hearing notifies the City Clerk 24 hours in advance that the hearing is no longer requested. The deposit of \$100 shall not be returned to an individual who has cancelled two or more hearings.

(2013 Code, § 15.5-17)

(D) *Procedures for processing complaints.* After receiving a complaint filed under division (C) above, the Housing Officer shall forthwith notify the Chair of the Housing Advisory Board. The Chair shall set a time, place and date of hearing and notify the complainant and other Board members of the time, place and date of hearing not less than three days before the date. The Chair may change the time, place and date for such good cause shown.

(2013 Code, § 15.5-18)

(E) *Hearing.*

(1) At the hearing on the complaint filed under this subchapter, the complainant shall be afforded a full opportunity to be heard and shall have the right to produce witnesses and to be represented by counsel. After hearing all relevant evidence, the Housing Advisory Board shall summarize the proceedings in writing and transmit a copy with a recommendation to the Housing Officer within three days. The Board may request assistance from the City Attorney's office in formalizing its findings and determinations, which shall be issued in written form.

(2) Hearings shall be open to the public during the presentation of testimony and other evidence and during any argument or discussion the Board may permit.

(2013 Code, § 15.5-19)

(F) *Effect of complaint; use of report.* After a complaint is filed under this chapter, the Housing Officer shall stay all proceedings under this chapter until he or she has received a report from the Housing Advisory Board. All such reports shall be submitted to the City Council as attachments to any related request to proceed with legal action under this chapter, or as separate reports if no further legal action is contemplated.

(2013 Code, § 15.5-20)

(G) *Power to grant variances.*

(1) Upon application of an owner of an existing dwelling and after a hearing as provided in division (E) above, the Housing Advisory Board shall have the

power to grant a variance from the provisions of this chapter, if the owner can show that:

- (a) The burden on the owner to meet the requirements of this chapter outweighs any resulting benefit to the public health and safety;
 - (b) Because of the design or construction of the dwelling it would be impractical to meet the requirements of this chapter or that it would cause undue hardship to meet such requirements;
 - (c) Strict adherence to this chapter would be arbitrary; and
 - (d) Such a variance would be in harmony with the intended spirit and general purpose of this chapter to secure the public health, safety and welfare.
- (2) Variances that, if granted, would significantly change the inspection criteria as prescribed by this chapter shall be submitted to the City Council along with the Board's recommendation for final approval. A significant change for the purposes of this section shall be:

- (a) Modification of the acceptability criteria in § 152.020 of this chapter; and
 - (b) Modification of the requirements specified in §§ 152.022, 152.023 and 152.024 of this chapter.
- (2013 Code, § 15.5-21)

(H) *Jurisdiction of Housing Advisory Board.* The jurisdiction of the Housing Advisory Board is limited to this chapter. Nothing in this section is intended to repeal, amend or modify the jurisdiction of any boards of appeal created by state law with jurisdiction to enforce state housing or building laws.

(2013 Code, § 15.5-22)

(Ord. 14437, passed 8-23-1993; Ord. 14538, passed 3-25-1996)

MINIMUM PROPERTY STANDARDS

§ 152.020 HOUSING QUALITY STANDARDS.

- (A) *Sanitary facilities.*
 - (1) *Performance requirements.* The dwelling unit shall include its own sanitary facilities that are in proper operating condition, can be used in privacy and are adequate for personal cleanliness and the disposal of human waste.
 - (2) *Acceptability criteria.* A flush toilet in a separate room, a fixed basin with hot and cold running water and a shower or tub and hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.
- (B) *Food preparation and refuse disposal.*
 - (1) *Performance requirement.* The dwelling unit shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(2) *Acceptability criteria.* The unit shall contain the following equipment in proper operating conditions: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the family; and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services outdoors for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(C) *Space and security.*

(1) *Performance requirements.* The dwelling unit shall afford the family adequate space and security.

(2) *Acceptability criteria.* A living room, kitchen area and bathroom shall be present; and the dwelling unit shall contain at least one sleeping or living/sleeping room. Exterior doors and windows accessible from outside the unit shall be lockable.

(D) *Thermal environment.*

(1) *Performance requirement.* The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability criteria.* The dwelling unit shall contain safe heating facilities that are in proper operating condition and can provide adequate heat to each room in the dwelling unit appropriate for the climate to assure a health living environment. Unvented room heaters that burn gas, oil, kerosene or operate by electricity are unacceptable.

(E) *Illumination and electricity.*

(1) *Performance requirement.* Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(2) *Acceptability criteria.* Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two 115v duplex electrical convenience outlets shall be present and adequately located in the living area, kitchen area and each bedroom area. All electrical wiring shall be maintained in a safe condition, shall be used in a safe manner and properly operated for the use for which it is intended.

(F) *Structure and materials.*

(1) *Performance requirement.* The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

(2) *Acceptability criteria.* Ceiling, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose structural surface materials, severe buckling or movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weather-tight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding or other serious damage. A railing is required where three or more stair risers are present. The condition and equipment of interior and exterior stairways, halls, porches, walkways and the like

shall be such as not to present a danger of tripping or falling. Habitable rooms in basements or cellars shall be free of excessive water leakage or moisture. Elevators shall be maintained in safe and operating condition. In the case of a mobile home, a tie down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding shall securely anchor the home.

(G) *Interior air quality.*

(1) *Performance requirement.* The dwelling unit shall be free of pollutants in the air at levels that threaten the health of the occupants.

(2) *Acceptability criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, excessive dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one operable window or other adequate exhaust ventilation.

(H) *Water supply.*

(1) *Performance requirement.* The water supply shall be free from contamination.

(2) *Acceptability criteria.* The unit shall be served by an approved public or private sanitary water supply.

(I) *Lead based paint.*

(1) *Performance requirement.* The dwelling unit shall be in compliance with HUD lead based paint regulations, 24 C.F.R. part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 24 U.S.C. § 4801; and the owner shall provide a certification that the dwelling is in accordance with such HUD regulations. If the property was constructed prior to 1950, the family upon occupancy shall have been furnished the notice required by HUD lead based paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

(2) *Acceptability criteria.* Same as performance requirement.

(J) *Access; performance requirement.*

(1) The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties and the building shall provide an alternate means of egress in case of fire, such as fire stairs or egress through windows.

(2) Every sleeping room below the fourth story shall have at least one operable window with a finished sill height not more than 44 inches above the floor or an exterior door approved for emergency egress or rescue. Each window in a sleeping room shall have a minimum net clear opening of 5.7 square feet. The minimum net clear height shall be not less than 24 inches. The minimum net clear width shall not be less than 20 inches.

(K) *Site conditions performance requirement.* The site shall not be subject to serious adverse environmental conditions, natural or human-made, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank backups, sewage hazards or mud slides, abnormal air pollution, smoke or dust, excessive noise, vibration or vehicular traffic, excessive accumulation of trash, vermin or rodent infestations or fire hazards.

(L) *Sanitary condition.*

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(1) *Performance requirement.* The unit and its equipment shall be in sanitary condition.

(2) *Acceptability criteria.* The unit and its equipment shall be free of vermin and rodent infestation.

(M) *Early warning fire protection system.*

(1) *Performance requirement.* The owner shall provide smoke detectors for each dwelling unit and rooming unit. If the smoke detector within an individual dwelling unit or rooming unit requires routine replacement of batteries for proper operation, the owner or operator may require the tenant of the dwelling unit or rooming unit to be responsible for such. In this event, the owner or operator shall adequately notify the tenant of this responsibility. Smoke detectors located in common area of multiple dwellings or rooming houses such as stairways, corridors and basements shall be maintained by the owner or operator of the dwelling. No persons shall alter or tamper with a smoke detector or otherwise interfere with its operating characteristics.

(2) *Acceptability criteria.*

(a) All dwelling units and rooming houses shall be provided with smoke detectors as approved by the Housing Inspector on each level of the dwelling unit to include each story and unoccupied basement. The detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or the area giving access to rooms used for sleeping purposes. Smoke detectors hereafter installed in areas where sleeping rooms are on an upper level shall be placed above the stairway. All detectors shall be located according to manufacturer's directions. Care shall be exercised to ensure that the installation will not interfere with the operating characteristics of the detector. When actuated, the detector shall provide an alarm for the dwelling unit or rooming unit.

(b) Additional provisions for multiple dwellings and rooming houses containing more than four persons not related to the owner or operator by blood, marriage or legal adoption.

(3) *Performance requirement.* All multiple dwellings and rooming houses shall comply with the fire safety rules provided for in Iowa Admin. Code § 680-5.803(100).

(N) *Acceptability criteria.*

(1) *Exits.*

(a) Each living unit and rooming unit shall have access to at least two separate exits that are remote from each other and are reached by travel in different directions.

1. *Exception No. 1.* Any dwelling unit or rooming unit, which has an exit directly to the street or an enclosed stairway with fire resistance rating of one hour or more serving that unit only and not communicating with any floor below the level of exit discharge or other area not a part of the unit served, may have a single exit.

2. *Exception No. 2.* A building of any height with not more than four dwellings or rooming units per floor with smoke-proof tower or outside stair as the exit, immediately accessible to all units served thereby, may have a single exit. The term **IMMEDIATELY ACCESSIBLE** means a travel distance of 20 feet

maximum from the door of a unit to the door of an open-air vestibule or balcony leading to a smoke-proof tower.

3. *Exception No. 3.* Any building three stories or less in height with no floor below the level of exit discharge or, in case there is such a floor, with the street floor construction of at least one-hour fire resistance may have a single exit, under the following conditions.

a. The stairway is completely enclosed with a partition having a fire resistance rating of at least one hour with self-closing 20-minute fire protection rated doors protecting all openings between the stairway enclosure and the building.

b. The stairway does not serve any floor below the level of exit discharge.

c. All corridors serving as access to exits have at least one-hour fire resistance rating.

(b) There is not more than 20 feet of travel distance to reach an exit from the entrance door of any dwelling unit or room unit.

(2) *Enclosure protection of exits.*

(a) All stairways, elevators shafts and other vertical openings shall be enclosed or protected with material equal to one-hour fire resistive construction. All required exit stairs, which are located so that it is necessary to pass through the lobby or other open space to reach the outside of the building, shall be continuously enclosed down to the lobby level.

(b) Unprotected vertical openings may be permitted in fire-resistive buildings with a Class A finish, or in sprinklered buildings, not to exceed two floors. This division (N)(2)(b) is to permit open stairways from the lobby to the mezzanine level or open stairs from the lobby to basement areas used for hotel purposes.

(c) Wire glass, not to exceed 900 square inches on any single frame, may be used in stairway doors.

(d) All doors to stairway enclosures shall be protected by fire assembly having a one-hour fire protection rating and shall be self-closing.

(3) *Interior finish.* The exit ways, lobbies, public assembly meeting rooms and corridors shall have Class A interior finish. Class A finish shall mean the use of materials having a flame spread of less than 25 as rated by the National Board of Underwriters Laboratories.

(4) *Exit lighting and signs.* All apartment buildings two or more stories high and having more than ten apartment units, shall have corridor and exit signs. The illumination of corridor and exit signs shall be such that people of normal vision can move freely and the exit signs shall be legible at all times from any common corridor area.

(O) *Hazardous occupancies.* Hazardous occupancies in apartment buildings such as boiler rooms, utility rooms and general storage areas shall be protected by walls and fire doors constructed of materials providing at least a minimum of one-hour fire rating.

(P) *Fire protection equipment and devices.* Approved type fire extinguisher shall be provided on each floor, so located that they will be accessible to the occupants,

and spaced so that no person will have to travel more than 75 feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in areas that constitute a special hazard. The Housing Inspector shall determine type and number of portable fire extinguishers. As a guideline, each multiple-dwelling unit may be equipped with fire extinguishers having a 2A-ABC rating in common areas or a 1A-ABC rating within individual dwelling units. A qualified technician shall service each fire extinguisher annually or other person approved by the city's Fire Department.

(2013 Code, § 15.5-26) (Ord. 14437, passed 8-23-1993) Penalty, see § 152.999

§ 152.021 FIRE SAFETY; MINIMUM REQUIREMENTS.

The minimum fire safety standards applicable to all dwelling units shall be those set forth in any code as may be duly adopted by the city or as may be promulgated by the state.

(2013 Code, § 15.5-39) (Ord. 14437, passed 8-23-1993)

§ 152.022 MAXIMUM OCCUPANCY.

In all cases, each dwelling unit shall provide habitable floor space totaling at least 150 square feet for the first occupant and 100 square feet for each additional occupant.

(2013 Code, § 15.5-4) (Ord. 14437, passed 8-23-1993)

§ 152.023 PLUMBING FACILITIES.

Each apartment shall have:

(A) Two permanent and functioning sinks with plumbing for hot and cold water, one sink located to afford privacy and another sink located in the kitchen area;

(B) A room which affords privacy and which is equipped with a flush water closet;

(C) A bathtub or shower with plumbing for hot and cold water and located to afford privacy;

(D) Functioning water heating facilities capable of heating two gallons of water per hour through 100°F (37.8°C) for each occupant, and supplying water at not less than 120°F (48.9°C) at every kitchen sink, lavatory, bathtub and shower; and

(E) Safe heating facilities capable of heating all habitable rooms, bathrooms and water closet to compartments to at least 68°F (20°C) at a distance three feet above the floor and five feet away from any exterior wall at all times.

(2013 Code, § 15.5-41) (Ord. 14437, passed 8-23-1993)

§ 152.024 ROOMING HOUSE, BOARDING HOUSE, DORMITORY ROOMS AND OTHER ROOMING UNITS.

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(A) No person shall operate a rooming house or boarding house or let to another for occupancy any dormitory room or rooming unit or both in any rooming house or boarding house, which is not in compliance with the provisions of every section of this chapter, except § 152.022 of this chapter. No owner shall let to another person any rooming unit, boarding room or dormitory room unless it is safe, sanitary and suitable and complies with all applicable requirements of the city.

(B) No person shall operate a rooming house or boarding house unless he or she holds a valid certificate of compliance issued by the appropriate authority as provided for in this chapter. The owner shall apply to the city upon compliance by the operator with the applicable provisions of this code and of any rules and regulations adopted pursuant thereto.

(C) At least one flush water closet, lavatory basin and bathtub or shower, properly connected to an approved water system under pressure and sewer system in good working condition, shall be supplied for each four persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of such facilities; provided that:

(1) In a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half the required number of water closets;

(2) All such facilities shall be so located within the dwelling as to be reasonably accessible to all persons sharing such facilities and from a common hall or passageway; and

(3) Every lavatory basin and bathtub or shower shall be adequately supplied with heated and unheated water under pressure at all times.

(D) The following provisions shall apply to all rooming houses and boarding houses.

(1) Cooking in dormitory rooms, boarding rooms and rooming units is prohibited.

(2) Access doors to each unit shall have operating locks to ensure privacy.

(3) Unless exempted by the city in writing, the owner of every rooming house or boarding house or dormitory shall change supplied bed linen and towels therein at least once a week and prior to the letting of any room to any occupant. The owner shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(4) Every room occupied for sleeping purposes shall contain at least 70 square feet for each occupant.

(5) Every rooming or boarding unit shall have immediate access to an approved means of egress, appropriately marked, leading to safe and open space at ground level, as required by the appropriate statutes, ordinances and regulations of the city and the state.

(6) Structurally sound handrails shall be provided on any steps containing three risers or more. If steps are not enclosed, handrails and intermediate rails of an ornamental pattern shall be utilized such that no object four inches in diameter can pass through. Handrails shall be not less than 30 inches above the nosing of the treads. Porches or balconies located more than 30 inches higher than the adjacent areas shall have structurally sound guardrails 36 to 42 inches high and if

unenclosed, balusters, intermediate rails or an ornamental pattern used as previously discussed in this division (D). Alternate systems providing at least the same degree of safety, if approved by the appropriate authority, will be accepted.

(7) Access to or egress from each unit shall be provided without passing through any other unit.

(2013 Code, § 15.5-42) (Ord. 14437, passed 8-23-1993) Penalty, see § 152.999

§ 152.025 RESPONSIBILITY; OWNER AND OCCUPANTS.

(A) Owners or operators shall be responsible for:

(1) Displaying the letter of compliance to each new tenant, unless there is an application for the letter of compliance still on file, and maintaining the letter of compliance where accessible for inspection by the occupants or the Housing Inspector and providing a copy to the tenant on request;

(2) Informing the occupants in writing of whom to notify in case of an emergency. This information should be available in each dwelling unit;

(3) Informing tenants of requirements relative to parking spaces;

(4) Maintaining public areas of the premises in a decent, safe and sanitary condition; keeping floors, floor coverings, walls and ceilings reasonably clean and free of rubbish and garbage; and ensuring that stagnant water is not allowed to accumulate or stand anywhere on the premises;

(5) Exterminating rodents, insects and other pests when more than one unit or a common area is affected;

(6) Providing required fire extinguishers and smoke detectors in good working condition at the beginning of each tenancy;

(7) Supplying properly sized fuses or equivalent, at the beginning of each tenant's occupancy;

(8) Supplying each outside door and window intended for ventilation of a habitable room with a screen adequate to prevent entry of insects and installing such screens each spring and removing them each fall;

(9) Installing supplied storm doors and storm windows, except to thermal pane windows, at the beginning of the cold weather season and removing them in the spring;

(10) Supplying heat to dwelling units from September 15 to June 15 of each year, when the owner is responsible for paying for heating in the rental agreement;

(11) Removing snow and ice from walks and drives;

(12) Mowing lawns, trimming shrubs and trees, and controlling weeds to maintain the premises in a neat condition, comparable to other premises in the neighborhood; and

(13) Providing for garbage and rubbish removal and supplying such facilities or containers as are necessary for the sanitary disposal of all garbage and rubbish. Containers shall be water-tight metal or plastic receptacles approved by the city sanitation officer, provided with handles or bales and a tight-fitting cover, and with a capacity not exceeding 30 gallons, except commercial dumpsters and the like furnished by the collectors to commercial customers. The receptacle for the receiving and holding

of garbage shall be kept covered and in a sanitary condition at all times. Garbage shall be wrapped when placed in the receptacle. Responsibility for providing receptacles for rental property shall be the landlord's.

(B) Additionally, it shall be the duty of any person, firm or corporation using or maintaining a garbage receptacle to cause the receptacle to be emptied of its contents before it is so full that the cover will no longer fit tightly.

(C) The owner/operator may enter into a written agreement with some other person who will maintain public areas, remove and install supplied screens and storm windows, remove snow and ice, mow lawns, trim shrubs, control weeds or remove garbage and rubbish. Such written agreement does not diminish the responsibility of the owner/operator to see that these requirements are fulfilled.

(D) Unless the owner has specifically agreed in writing to render such service or to otherwise accept such responsibility, the occupant of a rental unit shall be responsible for:

(1) Notifying the operator, in writing, of maintenance needed on the dwelling or supplied equipment and of unsafe or unsanitary conditions;

(2) Keeping all equipment and fixtures in the occupant's dwelling unit clean and in a sanitary condition and exercising reasonable care in the use and operation thereof;

(3) Not storing or housing hazardous, flammable or combustible materials within any rental dwelling, including gasoline in mowers, vehicles or other containers;

(4) Exterminating rodents, insects and other pests when only the occupant's dwelling unit is affected;

(5) Safe disposal of hazardous materials, such as hot coals from furnace or grill, paints and other combustibles and pesticides and other hazardous chemicals;

(6) Maintaining supplied fire extinguishers and smoke detectors;

(7) Using light bulbs that do not exceed the size recommended by the fixture manufacturer;

(8) Supplying properly sized fuses, or their equivalent, as needed during occupancy for those circuits serving only the occupant's dwelling unit;

(9) Disposing of rubbish, garbage and other organic waste in a clean and sanitary manner, by placing it in disposal facilities or storage containers and by closing or replacing container lids;

(10) Maintaining that part of the dwelling and premises that the occupant occupies in a decent, safe and sanitary condition; and

(11) Supplying every window of each dwelling unit with shades, draw drapes or other devices or materials which, when properly used, afford privacy to the occupant of each dwelling unit.

(2013 Code, § 15.5-43) (Ord. 14437, passed 8-23-1993)

§ 152.026 POLICY OF CITY.

It is the declared public policy of the city that the preservation of habitable housing stock, and of deteriorated housing stock which, upon economically feasible rehabilitation, can again become habitable, is a matter of the most serious public interest, and that the expenditure of public funds toward the acquisition of abandoned and deteriorated housing stock, toward its preservation and ultimate residential use by residents of the city, shall be an expenditure for a valid public purpose. (2013 Code, § 15.5-44) (Ord. 14437, passed 8-23-1993)

§ 152.027 ABANDONED HOUSES; ACQUISITION FOR REHABILITATION.

(A) *Deemed public nuisance.*

(1) A residential dwelling structure which has been determined to be by court decree in violation of the city's Housing Maintenance and Occupancy Code and such violations have not been cured for a period of over six consecutive months, shall be deemed a public nuisance, unless:

(a) The owner, or a person acting on behalf of or at the direction of the owner of the structure is actively engaged in the correction of such code violations and has made substantial progress and can be completed within 30 days after the expiration of the six-month period; or

(b) The structure is the subject of legal proceedings other than code enforcement proceedings that make the structure legally unavailable for either rehabilitation or habitation during all or any part of such period.

(2) The fact that a city building permit of any type has been issued, either before or during the 30-day notice period identified in division (A) above for repair or reconstruction of, or installation of equipment or materials in, such a structure shall not of itself be evidence of active engagement in the correction of code violations.

(B) *Notice of acquisition or demolition.* Upon application or upon its own motion, the City Council may cause notice to be given to the holder or holders of record title to any such structure by certified mail, return receipt requested, advising such owner or owners, that:

(1) If it is economically feasible to repair such structure, then under the conditions set forth in division (A) above, the city may acquire such structure for resale by open public bidding to a purchaser who shall agree, as a condition of its purchase, to rehabilitate such structure and correct such code violations as exist at the time of purchase, within a determined reasonable period of time, for rehabilitation as a residential dwelling structure; or

(2) If it is not economically feasible to repair such structure, then the city shall take action to ensure the demolition of the structure and the leveling of the lot or parcel upon which it is situated.

(C) *Repair and rehabilitation not to exceed fair market value.* For purposes of this subchapter, a property shall be deemed not to be economically feasible to repair and rehabilitate if, in the opinion of the City Council, as advised by persons expert in the construction, repair and appraisal of residential structures, the cost of reasonable repair and rehabilitation of the structure, when added to the value of the property at the time of

the Council's determination, together exceed the fair market value to which the property would attain upon completion of such reasonable repair and rehabilitation.

(D) *Manner of acquisition.* If, upon having given notice to the holder or holders of record title to such structure as set forth in division (B) above, such holder or holders do not commence active repair and rehabilitation of such structure within 30 days of such mailing, and continue without delay in such active repair and rehabilitation until code violations have been corrected, then the City Council may direct the City Manager to obtain an appraisal of the fair market value of such property and to commence negotiations for its acquisition from such holder or holders and, if the city fails in such direct negotiations to acquire record title to such property, the City Council may direct the commencement of eminent domain proceedings toward the acquisition of such record title, for resale of such property within a reasonable period of time, and upon conditions which require prompt rehabilitation and correction of code violations and its use as a residential dwelling structure, in any case where early resale, repair, rehabilitation and rehabilitation appear likely of accomplishment.

(2013 Code, § 15.5-45) (Ord. 14437, passed 8-23-1993)

§ 152.028 ABANDONED OR UNSAFE BUILDINGS; ABATEMENT.

The city adopts by reference I.C.A. Ch. 657A, Abandoned or Unsafe Buildings - Abatement by Rehabilitation, and such provisions shall have the full force and effect as though printed herein.

(2013 Code, § 15.5-46) (Ord. 14437, passed 8-23-1993)

§ 152.999 PENALTY.

(A) No owner or operator shall rent or offer for rent any dwelling unit for use in whole or in part for human habitation, unless a valid letter of compliance has been issued for any such dwelling unit to the current owner, subject to the following exceptions:

(1) Any dwelling unit in which a valid letter of compliance issued to a previous owner is in effect at the time of acquisition by the current owner, and the current owner has filed an application for a letter of compliance; or

(2) Any dwelling unit in which a valid letter of compliance is not in effect at the time of acquisition by the current owner and the current owner has filed an application for a letter of compliance, and any of the following has occurred:

(a) The Housing Inspector conducted an inspection of the dwelling unit, and it was found to conform to the requirements of this chapter;

(b) After an inspection conducted by the Housing Inspector resulting in a finding that the dwelling unit failed to conform to the requirements of this chapter, the current owner entered into a written agreement with the Housing Inspector, detailing a program to abate non-conformance with the requirements of this chapter, and such agreement was successfully completed or is still in effect; or

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(c) The Housing Inspector failed to conduct an inspection of the dwelling unit within ten working days from the filing of an application for a letter of compliance for the dwelling unit by the current owner. However, if the Housing Inspector thereafter conducts an inspection, the exception provided by this division (A)(2) shall no longer be in effect, and the requirements of divisions (A)(2)(a) and (A)(2)(b) above shall apply.

(d) Annual registration of residential rental property shall constitute an application for the letter of compliance.

(B) No person shall occupy nor shall the owner or operator allow any person to occupy any dwelling unit more than 30 days after the effective date of the denial or revocation of a letter of compliance for that dwelling unit or after the Housing Inspector finds that the vacation of the dwelling unit is necessary before abatement of a non-conformance can reasonably proceed.

(C) No person shall occupy nor shall the owner or operator allow any person to occupy any dwelling unit in excess of the maximum occupancy permitted in § 152.022 of this chapter.

(D) No person shall permit a state of non-conformance to exist after the time set by the Housing Inspector for abating the non-conformance.

(E) No person shall fail to fulfill the specific obligations placed upon the person by the sections of this chapter relating to minimum property standards, whether the person is owner, operator or occupant.

(F) No owner of property regulated by this chapter shall fail or refuse to pay a fee in the method and within the time required, prescribed by § 152.005(C) of this chapter and applicable resolutions of the City Council, nor shall any owner fail to submit a completed registration form to the Housing Inspector, in accordance with the requirements of § 152.005(B) of this chapter.

(G) Willful or repeated non-compliance with the requirements of this chapter by the owner, operator or occupant shall constitute a misdemeanor and be punished by a penalty as provided in § 10.999(A) of this code of ordinances. Each day of non-compliance will constitute a separate violation.

(H) Persons in violation of divisions (A) through (F) above may, for each such violation, be cited for a municipal infraction and be subject to such civil penalties as defined in I.C.A. § 364.22. Such persons shall also be liable in such case for all costs, expenses and disbursement of any such violation. Such persons shall also be liable to eviction or to revocation of the letter of compliance.

(I) The Housing Inspector, upon finding an apparent violation of this section, may institute appropriate legal proceedings.

(J) Application for a hearing under § 152.008(C) of this chapter shall stay the effective date of the enforcement of this section unless an emergency exists.

(K) Violation of § 131.006 of this code of ordinances by an owner of property subject to the city's Housing Code shall also constitute a violation of the city's Housing Code enforceable by collection of a reasonable fee for inspection and enforcement procedures assessed as taxes to that property following the notice provisions described herein.

(L) Violation of § 50.009 of this code of ordinances by an owner of property subject to the city's Housing Code shall also constitute a violation of the city's Housing

Code enforceable by collection of a reasonable fee for inspection and enforcement procedures assessed as taxes to that property following the notice provisions. (2013 Code, § 15.5-5) (Ord. 14437, passed 8-23-1993; Ord. 14558, passed 2-10-1997; Ord. 14896, passed 1-23-2012; Ord. 14970, passed 11-27-2017)

CHAPTER 153: PLUMBING CODE

Section

153.001 Plumbing Code adopted

153.002 Amendments, modifications, additions and deletions

153.999 Penalty

Cross-reference:

Plumbers and plumbing, see Ch. 115

§ 153.001 PLUMBING CODE ADOPTED.

(A) The Uniform Plumbing Code, as published by the International Conference of Plumbing and Mechanical Officials, 2009 edition, is adopted in full as the Plumbing Code of the city, except portions that are deleted, modified or amended herein, hereinafter referred to as the "Plumbing Code".

(B) Any person, firm or corporation violating any of the provisions of the Plumbing Code, as amended, shall be guilty of a simple misdemeanor.

(C) Violations of the Plumbing Code, as amended, shall also constitute a municipal infraction.

(2013 Code, § 14-76) (Ord. 14375, passed 3-23-1992; Ord. 14536, passed 4-8-1996; Ord. 14647, passed 5-8-2000; Ord. 14900, passed 6-11-2012) Penalty, see § 153.999

§ 153.002 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS.

(A) Plumbing fees shall be set by resolution of the City Council.

(B) The 2009 edition of the Uniform Plumbing Code is hereby amended to the extent described herein.

(1) 2009 UPC Chapter 1, Table 1-1, Plumbing and Gas Fee Schedule, is established by resolution by the City Council.

(2) 2009 UPC Chapter 4, Amendments. 402.3 Urinals, is amended by deleting subsection 402.3.1, Non-Water Urinals.

(3) 2009 Chapter 7 amendments.

(a) 703.1, is amended by adding the minimum size building drain in one- and two-family dwellings shall be four inches.

(b) 717.0, is amended by adding to the end of the section: "The minimum diameter for a building sewer shall be four (4) inches."

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(4) 2009 UPC Chapter 8 amendments. 807.4 is amended by substituting the following:

No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level rim of the kitchen sink. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level rim of the sink or drain-board, whichever is higher.

(5) 2009 UPC Chapter 9 amendments.

(a) 906.7, the first sentence, is amended to read:

Vent termination shall be a minimum of three (3) inches in diameter, but in no event smaller than the required vent size.

(b) 908.0 is amended by deleting the word "vertical" in the following subsections: 908.1.1 and 908.1.2.

(c) 908.2 is deleted in its entirety.

(6) 2009 Chapter 12 amendments.

(a) 1209.5.2.3 is amended by deleting the word "copper" from this section.

(b) 1209.5.3 is amended by deleting the term "seamless copper".

(c) 1209.5.3.1 is deleted in its entirety.

(d) 1209.5.3.2 is amended by deleting the word "copper" from this section.

(e) 1209.5.8.4 is amended by deleting the word "copper" from subsection 3.

(f) 1211.2.1, is amended by adding the following:

Fuel piping from the gas meter into the building shall be hard piped. Corrugated Stainless Steel piping shall not be used.

(g) 1211.2 is amended by adding a subsection (3):

(3) Stainless Steel Corrugated piping shall be concealed in the walls or ceiling, there shall be a transition to hard pipe from the wall or ceiling to the appliance.

(h) 1212.1.3 Subsection 3 is amended to read:

Appliance connectors shall, at no time, have a diameter less than that of the inlet of the appliance as provided by the manufacturer. All other appliances unless, specifically designed by the manufacturer, and not designed to be readily moved, shall be rigidly connected to the gas piping with materials as provided in Section 1210.0.

(i) 1212.1.4 is deleted.

(j) 1212.1.6 is substituted to read:

Gas fired food service (commercial cooking) appliances shall either be hard piped or be connected with listed quick disconnect devices as section 1212.6 describes.

(k) 1214.1.1 is amended by adding the following sentence:

Screwed gas piping shall be pressure tested with a pressure of ten pounds (10#s) of air for at least fifteen (15) minutes and welded piping shall be pressure tested with a minimum pressure of sixty (60#s) pounds of air for thirty (30) minutes.

(C) Section 1003A,* Cross Connection Control-Containment Provisions, is added to read as follows:

a.) Definitions. The following definitions shall apply only to section 1003A. For the purpose of this section, these definitions supersede definitions given elsewhere in this Code.

1) Approved backflow prevention assembly for containment. A backflow prevention assembly which is listed by the University of Southern California Foundation

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for Cross Connection Control and Hydraulic Research as having met the requirements of ANSI-AWWA Standard C510-89, Double Check valve Backflow Prevention Assemblies," or ANSI-AWWA Standard C511-89, "Reduced-Pressure Principle Backflow- Prevention Assemblies," for containment. The listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly must also be listed by the International Association of Plumbing and Mechanical Officials.

2) Approved backflow prevention assembly for containment in a fire protection system. A backflow prevention assembly to be used in a fire protection system which meets the requirements of Factory Mutual Research Corporation (FM) and Underwriters' Laboratories, Inc. (UL), and the requirement of the fire code and the building code of the City of Marshalltown, in addition to the requirements of paragraph (1)a. Devices sized smaller than 2 1/2 inches which have not been listed by Underwriters' Laboratories, Inc. (UL), and tested by Factory Mutual Research Corporation (FM) may be allowed if they meet the requirements of the fire code and the building code of the city.

3) Auxiliary water supply. Any water supply on or available to the premises other than the water purveyor's approved public water supply such as but not limited to a private well, pond, or river.

4) Containment. A method of backflow prevention that requires the installation of a backflow prevention assembly at the water service entrance.

5) Cross connection. Any actual or potential connection or arrangement, physical or otherwise, between a potable water supply system and any plumbing fixture or tank, receptacle, equipment, or device, through which it may be possible for non-potable, used, unclean, polluted, and contaminated water, or other substance, to enter into any part of such potable water system under any condition.

6) Customer. The owner, operator, or occupant of a building or property that has a water service from a public water system, or the owner or operator of a private water system which has a water service from a public water system.

7) Degree of hazard. The rating of a cross connection or water service that indicates if it has the potential to cause contamination or pollution.

8) Double check valve backflow prevention assembly. A backflow prevention device consisting of two independently acting internally loaded check valves, four properly located test cocks, and two isolation valves.

9) High hazard cross connection. A high hazard cross connection is a cross connection which may cause an impairment of the quality of the potable water by creating an actual hazard to the public health, through poisoning or through the spread of disease by sewage, industrial fluids, or waste.

10) Isolation. A method of backflow prevention in which a backflow prevention assembly is located at the cross connection rather than at the water service entrance.

11) Low hazard cross connection. A low hazard cross connection is a cross connection which may cause an impairment of the quality of potable water to a degree which does not create a hazard to the public health, but which does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

12) Reduced pressure principle backflow prevention assembly. A backflow prevention device consisting of two independently acting internally loaded check valves, a different pressure relief valve, four properly located test cocks, and two isolation valves.

13) Registered backflow prevention assembly technician. A person who is registered by law to test or repair backflow prevention assemblies and report on the condition of those assemblies.

14) Thermal expansion. Volumetric increase of water due to heating resulting in increased pressure in a closed system.

15) Water service. Depending on the context, water service is the physical connection between a public water system and a customer's building, property, or private water system, or the act of providing potable water to a customer.

b.) Administrative authority.

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- 1) For the purposes of section 1003A only, the administrative authority is the City Council acting through the Marshalltown Water Works Board of Trustees.
 - 2) The administrative authority and its agents shall have the right to enter, with the consent of the customer or upon the basis of a suitable warrant issued by a court of appropriate jurisdiction, any property to inspect for possible cross connections.
 - 3) The administrative authority may approve training programs for backflow prevention assembly technicians and register backflow prevention assembly technicians who successfully complete an approved training program.
 - 4) The administrative authority through its agent, the Marshalltown Water Works, may collect fees for the administration of this program. The annual renewal fee shall be \$10.00 per year.
 - 5) The administrative authority shall maintain records of cross connection hazard surveys, and the installation, testing, and repair of all backflow prevention assemblies installed for containment purposes.
 - 6) The city shall provide necessary legal assistance for enforcement of this section.
- c.) New water services.
- 1) Plans shall be submitted to the administrative authority for review on all new water services in order to determine the degree of hazard.
 - 2) The administrative authority shall determine the type of backflow prevention assembly required for containment based on the degree of hazard.
 - 3) The administrative authority shall require the installation of the appropriate backflow prevention assembly for containment before the initiation of water service.
- d.) Existing water services.
- 1) Upgrades of existing water services shall be treated as new water services for the purpose of section 1003A.
 - 2) Within six months after adoption of this section, the administrative authority shall publish and make available to each customer a copy of the standards used to determine the degree of hazard.
 - 3) Within 30 days after written notice from the administrative authority and after publication of the standards, customers whose premises are classified as single-family residential shall complete and return to the administrative authority a cross connection hazard survey to be used to determine the type of containment device.
 - 4) Within 30 days after written notice from the administrative authority and after publication of the standards, the following customers shall complete and return to the administrative authority a cross connection hazard survey to be used to determine the type of containment device:
 - 5) Customers whose premises are not classified as single-family residential.
 - 6) Customers whose premises are classified as single-family residential and the premises contain an irrigation or fire protection system.
 - 7) The administrative authority shall, on the basis of information received from customers or gathered through on-premises investigations or surveys, determine the type of backflow prevention assembly required for containment based on the degree of hazard.
 - 8) Within the timeframe specified in writing by the administrative authority, the customer shall install a backflow prevention assembly for containment required by the administrative authority.
 - 9) For existing water services, the administrative authority may inspect the premises to determine the degree of hazard. When high hazard cross connections are found, the administrative authority shall, at its sole discretion:
 - 10) Develop a schedule of compliance which the customer shall follow; or
 - i. Terminate the water service until a backflow prevention assembly for containment required by the administrative authority has been installed.

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ii. Failure of the administrative authority to notify a customer that they are believed to have a high hazard cross connection and that they shall install backflow prevention assemblies for containment in no way relieves a customer of the responsibility to comply with all requirements of this section.

e.) Customer.

1) The customer shall be responsible for ensuring that no cross connections exist without approved backflow protection within his or her premises starting at the point of service from the public potable water system.

2) The customer shall, at his or her own expense, cause installation, operation, testing and maintenance of the backflow prevention assemblies required by the administrative authority.

3) The customer shall ensure the administrative authority is provided with copies of records of the installation and of all tests and repairs made to the backflow prevention assembly within 15 days after testing and/or repairs are completed.

4) In the event of a backflow incident, the customer shall immediately notify the Marshalltown Water Works of the incident and take steps to confine the contamination or pollution.

f.) Required backflow prevention assemblies for containment-Water services.

1) An air gap or an approved reduced pressure principle backflow prevention assembly is required for water services having one or more cross connections which the administrative authority classifies as high hazard.

2) An approved double check valve assembly is required for water services having no high hazard cross connections but having one or more cross connections which the administrative authority has classified as low hazard.

g.) Required backflow prevention assemblies for containment-Fire protection systems.

1) A reduced pressure principle backflow prevention assembly shall be installed on all new and existing fire protection systems that the administrative authority determines to have any of the following:

i. Direct connections from public water mains with an auxiliary water supply on or available to the premises for pumper connection.

ii. Interconnections with auxiliary supplies such as reservoirs, rivers, ponds, wells, mills, or other industrial water systems.

iii. Use of antifreezes or other additives in the fire protection system.

iv. Combined industrial or domestic with high hazard and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

v. Any other facility, connection, or condition that may cause contamination.

2) A double check valve assembly will be required for all other fire protection systems. The double check valve shall be required on all new systems at the time of installation and on existing systems at the time that they are upgraded.

3) Submittal of proposed backflow prevention devices to the administrative authority does not relieve the designer or sprinkler contractor of the responsibility of submitting plans, including backflow prevention devices, to the fire marshal for approval.

h.) Registration of backflow prevention assembly technician. A backflow prevention assembly technician registered by the State of Iowa shall include his or her registration number on all correspondence and forms required by or associated with this section.

i.) Registered backflow prevention assembly technician non-compliance.

1) The registration of a technician may be revoked or suspended for a period of up to two years for non-compliance with this section.

2) Any of the following conditions constitute non-compliance:

i. Improper testing or repair of backflow prevention assemblies.

ii. Improper reporting of the results of testing or of repairs made to backflow prevention assemblies.

iii. Failure to meet registration requirements.

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- iv. Related unethical practices.
- j.) Installation of backflow prevention assemblies.
 - 1) The required backflow prevention assemblies for containment shall be installed in horizontal plumbing immediately following the meter or as close to that location as deemed practical by the administrative authority. In any case, it shall be located upstream from any branch piping. Installation at this point does not eliminate the responsibility of the customer to protect the water supply system from containment or pollution between the backflow prevention assembly and the water main.
 - i. Reduced pressure principle backflow prevention assemblies shall be installed so as to be protected from flooding.
 - ii. Reduced pressure principle backflow prevention assemblies shall not be installed in underground vaults or pits.
 - iii. All backflow prevention assemblies shall be protected from freezing. Those devices used for seasonal services may be removed in lieu of being protected from freezing; however, the devices must be reinstalled and tested by a registered backflow prevention assembly technician prior to service being reactivated.
 - iv. If hot water is used within the water system, thermal expansion shall be provided for when installing a backflow prevention assembly for containment.
 - v. Provisions shall be made to convey the discharge of water from reduced pressure principle backflow prevention assemblies to a suitable drain.
 - vi. No backflow prevention assemblies shall be installed in a place where it would create a safety hazard, such as but not limited to over an electrical panel, or above ceiling level.
 - vii. If interruption of water service during testing and repair of backflow prevention assemblies for containment is unacceptable to the customer, another backflow prevention assembly, sized to handle the temporary water flow need during the time of test or repair, should be installed in parallel piping.
 - viii. All backflow prevention assemblies shall be installed so that they are accessible for testing as stated in section 1003.
 - ix. All shutoff valves shall conform to the current edition of the Manual of Cross Connection Control (University of Southern California) requirements for either ball or resilient seat gate valves at the time of installation. Ball valves shall be used on assemblies installed in piping two inches and smaller and resilient seat gate valves on assemblies installed in piping larger than two inches.
 - k.) Testing of backflow prevention assemblies.
 - 1) Testing of backflow prevention assemblies shall be performed by a registered backflow prevention assembly technician. The costs of tests required in the following paragraph b shall be borne by the customer.
 - 2) Backflow prevention assemblies shall be tested upon installation and tested and inspected at least annually.
 - 3) Backflow prevention assemblies that are in place, but have been out of operation for more than three months, shall be tested before being put back into operation. Backflow prevention assemblies used in seasonal applications shall be tested before being put into operation each season.
 - 4) Any backflow prevention assembly that fails a periodic test shall be repaired or replaced. When water service has been terminated for non-compliance, the backflow prevention assembly shall be repaired or replaced prior to the resumption of water service. Backflow prevention assemblies shall be retested by a registered backflow prevention assembly technician immediately after repair or replacement.
 - 5) The administrative authority may require backflow prevention assemblies to be tested at any time in addition to the annual testing requirement.
 - 6) The registered backflow prevention assembly technician shall report in writing the successful test of a backflow prevention assembly to the customer and to the administrative authority within 15 days of the test.

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7) The administrative authority may require, at its own cost, additional tests of individual backflow prevention assemblies as it shall deem necessary to verify test procedures and results.

l.) Repair of backflow prevention assemblies.

1) All repairs to backflow prevention assemblies shall be performed by registered backflow prevention assembly technicians.

2) The registered backflow prevention assembly technician shall not change the design, material, or operational characteristics of a backflow prevention assembly during repair or maintenance, and shall use only original manufacturer replacement parts.

3) The registered backflow prevention assembly technician shall report in writing the repair of a backflow prevention assembly to the customer and to the administrative authority within 15 days of the repair. The report shall include the list of materials or replacement parts used.

4) Any time fire services are discontinued for a period of time longer than necessary to test the device, the tester is required to notify the fire marshal's office that the fire services are shut off for repairs.

m.) Customer non-compliance.

1) The water service may be discontinued in the case of non-compliance with section 1003A. Non-compliance includes, but is not limited to, the following:

i. Refusal to allow the administrative authority access to the property to inspect for cross connections.

ii. Removal of a backflow prevention assembly that has been required by the administrative authority.

iii. Bypassing of a backflow prevention assembly that has been required by the administrative authority.

iv. Providing inadequate backflow prevention when cross connections exist.

v. Failure to install a backflow prevention assembly that has been required by the administrative authority.

vi. Failure to test and/or properly repair a backflow prevention assembly as required by the administrative authority.

vii. Failure to comply with the requirements of this section.

n.) In addition to any other remedy provided, a violation of this section is a municipal infraction, punishable by a fine of \$100.00 for the first offense and \$200.00 for each offense thereafter, or the city may seek other appropriate relief to abate the violation.

(2013 Code, § 14-77) (Ord. 14375, passed 3-23-1992; Ord. 14515, passed 2-27-1995; Ord. 14536, passed 4-8-1996; Ord. 14647, passed 5-8-2000; Ord. 14900, passed 6-11-2012)

§ 153.999 PENALTY.

Any person who violates any provision of §§ 153.001 and 153.002 of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances. In addition, a violation of §§ 153.001 and 153.002 of this chapter is a municipal infraction. In addition to the foregoing, the city's Plumbing and Gas Inspector may order the removal, correction or disconnection of any gas or plumbing installation that does not meet code specifications and shall have the authority to disconnect the installation when it is found that it endangers life and health.

(2013 Code, § 14-78) (Ord. 14375, passed 3-23-1992; Ord. 14536, passed 4-8-1996; Ord. 14970, passed 11-27-2017)

CHAPTER 154: ELECTRICITY

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GENERAL PROVISIONS

§ 154.001 SHORT TITLE.

This chapter shall be known as the “City of Marshalltown Electrical Ordinance”, and may be so cited.

(2013 Code, § 11-1) (Ord. 14392, passed 8-14-1992)

§ 154.002 PURPOSE AND SCOPE.

(A) It is the purpose of this chapter to adopt the edition of the National Electrical Code set out in § 154.035 of this chapter, including provisions for the inspection and regulation of electrical installations, issuance of permits and collection of fees and to provide penalties for violations of this chapter in order to protect public safety, health and welfare.

(B) The provisions of this chapter shall apply to and govern the supply of electricity and all installations, alterations, repairs, removals, renewals, replacements, disturbances, connections, disconnections and maintenance of all electrical equipment. For the purpose of this chapter, the term **ELECTRICAL EQUIPMENT** means all materials, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus, or parts thereof.

(2013 Code, § 11-2) (Ord. 14392, passed 8-14-1992)

§ 154.003 ACTIVITIES EXEMPT FROM CHAPTER.

The following activities are exempt from the provisions of this chapter:

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(A) Any work involved in the manufacturing or testing of electrical equipment or apparatus, but not including supply wire to such equipment;

(B) Any work associated with:

(1) Minor repair work or minor installations the estimated cost of which does not exceed \$40, or replacement of lamps, or the connection of portable electrical equipment suitable to permanent installed receptacles; provided, however, the following shall not be exempt from the provisions of this chapter:

(a) Replacement of part of any electrical service;

(b) Any electrical wiring done as a part of any construction or remodeling that requires a building permit;

(c) New installations of central air conditioning;

(d) New installations of permanently wired electric heat; and

(e) Any installation covered by Art. 680 of the National Electrical Code (Swimming Pools and Spas).

(2) Permanently connected electrical appliances or devices that have been electrically and mechanically disconnected and separated from all sources of electrical supply by a licensed electrician. The opening of switches or the blowing or removal of fuses shall not be considered an electrical or mechanical disconnection or separation.

(C) The installation or replacement of approved fuses; and

(D) The installation or replacement of pin-type lamps or plug-connected portable appliances.

(2013 Code, § 11-3) (Ord. 14392, passed 8-14-1992)

ELECTRICAL APPEAL BOARD

§ 154.015 CREATION; COMPOSITION AND APPOINTMENT.

There is hereby created an Electrical Appeal Board consisting of three members, to be appointed by the City Council.

(2013 Code, § 11-61) (Ord. 14392, passed 8-14-1992)

§ 154.016 QUALIFICATIONS OF MEMBERS.

(A) All members of the Electrical Appeal Board shall be residents of the city.

(B) One member shall be a representative of the public, one a journeyman electrician and one a licensed electrical contractor.

(2013 Code, § 11-62) (Ord. 14392, passed 8-14-1992)

§ 154.017 TERMS OF MEMBERS.

The terms of each member of the Electrical Appeal Board shall be six years; provided, however, that, the original appointments to the Board shall be made as follows: one member shall be appointed to serve for a period of two years: one member for four years; and one member for six years.

(2013 Code, § 11-63) (Ord. 14392, passed 8-14-1992)

§ 154.018 COMPENSATION.

Necessary and actual expenses shall be allowed to members of the Electrical Appeal Board, but no other compensation shall be paid to them.

(2013 Code, § 11-64) (Ord. 14392, passed 8-14-1992)

§ 154.019 MEMBERS NOT TO BE MEMBERS OF EXAMINING BOARD.

None of the appointees to membership on the Electrical Appeal Board shall be a member of the Electrical Examining Board.

(2013 Code, § 11-65) (Ord. 14392, passed 8-14-1992)

§ 154.020 COUNCIL TO PROVIDE SPACE FOR MEETINGS AND HEARINGS, EQUIPMENT AND FACILITIES.

The City Council shall provide suitable space in which the Electrical Appeal Board may hold meetings and conduct hearings and shall provide the Board necessary equipment and facilities and pay for these expenses.

(2013 Code, § 11-66) (Ord. 14392, passed 8-14-1992)

§ 154.021 MEETINGS; QUORUM; ELECTION OF OFFICERS.

The Electrical Appeal Board shall hold its first meeting not more than 30 days after 7-24-1978. Thereafter, the Board shall meet as often as may be necessary for the proper performance of its duties, but in any case not less than twice a year. A quorum of the Board shall consist of all its members. The board shall elect a Chairperson and a Secretary annually.

(2013 Code, § 11-67) (Ord. 14392, passed 8-14-1992)

§ 154.022 WHO MAY APPEAL; PROCEDURE.

(A) Any person aggrieved by any ruling, decision, interpretation or order of the Electrical Inspector shall have the right to appeal to the Electrical Appeal Board by filing a written notice of such appeal with the City Clerk within ten days from the date of the ruling, decision, interpretation or order being appealed.

(B) If such notice is filed, the Appeal Board shall set a time and place for a hearing, and notify the party that has filed the appeal. The date of the hearing shall be not more than 15 days after the date of the notice of appeal was filed. The notice of the hearing shall be sent by certified mail. The hearing shall be open to the public.

(C) All interested persons shall be given an opportunity to be heard.
(2013 Code, § 11-68) (Ord. 14392, passed 8-14-1992)

§ 154.023 DECISION OF BOARD; VARIANCES FROM GOVERNING PROVISIONS.

The Electrical Appeal Board by majority vote shall affirm, modify or reverse any appealed ruling, decision, interpretation or order of the Electrical Inspector. The Board may permit variance from the strict terms and provisions of this subchapter, if such variance can be made without increasing the hazards to health or safety of persons or property. Mere inconvenience to the appellant shall not be grounds for the granting of such variance.

(2013 Code, § 11-69) (Ord. 14392, passed 8-14-1992)

ELECTRICAL CODE

§ 154.035 ELECTRICAL CODE ADOPTED.

The 2017 National Electrical Code, as recommended by the National Fire Protection Association, is hereby adopted in full, by reference, specifically the National Electrical Code, 2017 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02169-7471, except as amended in § 154.036 of this chapter.

(2013 Code, § 11-4) (Ord. 14754, passed 12-27-2004; Ord. 14819, passed 12-17-2007; Ord. 14895, passed 1-23-2012; Ord. 14936, passed 1-26-2015; Ord. 14972, passed 5-14-2018)

§ 154.036 AMENDMENTS TO THE CURRENT NATIONAL ELECTRIC CODE.

With the exception that Rule 661-504.1 (103) be rescinded and adopt in lieu thereof the follow new rule. The provisions of the National Electrical Code, 2017 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661, Ch. 500 through 503, and to installations subject to inspection pursuant to I.C.A. Ch. 103 with the following amendments.

(A) 504.(1), add the following exceptions to § 210.8, paragraph (A), subparagraph (2):

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- a. Exception No.1 to (2): Receptacles that are not readily accessible.
 - b. Exception No.2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7 (A)(6), (A)(7), or (A)(8).
 - c. Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52 (G).
 - (B) 504.1(2), add the following exceptions to § 210.8 (A)(5).
 - a. Exception No.2 to (5): Receptacles that are not readily accessible.
 - b. Exception No.3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7 (A)(6), (A)(7) or (A)(8).
 - c. Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).
 - (C) 504.1(3), eliminate the exception to the § 220.12 and instead implement the following exception:

Exception: Where the building is designed and constructed to comply with an energy code adopted by the local authority, the lighting load shall be permitted to be calculated at the values specified in the energy code.
 - (D) 504.1(4), eliminate § 406.4(d)(4).
 - (E) 504.1(5), eliminate § 210/12b. This rule is intended to implement I.C.A. Ch. 103.
- (2013 Code, § 11-5) (Ord. 14392, passed 8-14-1992; Ord. 14895, passed 1-23-2012; Ord. 14936, passed 1-26-2015; Ord. 14972, passed 5-14-2018)

PERMITS

§ 154.050 REQUIRED; ISSUED FOR WORK MEETING REQUIREMENTS.

(A) No electrical work, as defined in § 154.002 of this chapter, shall be done unless a permit authorizing the work has been issued by the Electrical Inspector.

(B) A permit shall be issued if the electrical work, as proposed in the application for a permit, meets all the requirements of this chapter.
(2013 Code, § 11-37) (Ord. 14392, passed 8-14-1992) Penalty, see § 154.999

§ 154.051 PERSONS TO WHOM PERMIT MAY BE ISSUED.

Permits shall be issued only to electrical contractors licensed by the city or by the State of Iowa, except as provided in § 154.052 of this chapter. However, any permit required by this subchapter may be issued to the owner of a single-family dwelling or mobile home used exclusively for living purposes, to do any work regulated by this chapter; provided that, the dwelling will be occupied by the owner, the owner appears before the Electrical Inspector and shows himself or herself competent to do the specific work for which he or she desires a permit, and the owner purchases all materials and

performs all labor in connection with the work. All work done in accordance with this exception must meet all the requirements of this subchapter and shall be inspected like other work.

(2013 Code, § 11-38) (Ord. 14392, passed 8-14-1992)

§ 154.052 RESTRICTED PERMIT.

(A) Any restricted electrician doing service, repair, control work and making connection from power panel to the type of appliances or equipment which he or she or his or her employer sells or services shall procure from the Electrical Inspector a restricted permit, and pay the fee for inspection set out in § 154.058(A) of this chapter or, if said work or service be not covered by § 154.058(A) of this chapter, said inspection fee shall set by resolution.

(B) Said restricted permit shall only entitle the permittee to perform maintenance, repair and installation of the work or services therein designated, all subject to inspection by the city's Electrical Inspector.

(2013 Code, § 11-39) (Ord. 14392, passed 8-14-1992)

§ 154.053 PERMIT APPLICATION.

(A) Application for permits shall be made to the Electrical Inspector, on forms provided by the City Clerk, prior to the beginning of the work for which a permit is required, emergency work excepted.

(B) The application shall be accompanied by the appropriate fee according to the schedule set out in § 154.085(B) of this chapter and shall state the name and business address of the person or association proposing to do the work for which a permit is required and shall provide the following additional information:

- (1) A description of the property where the work is to be done;
- (2) The name of the owner or occupant of the property; and
- (3) A general description of the materials to be used.

(C) In addition to the foregoing, the application shall specify the particular parts of the work which will require inspection.

(2013 Code, § 11-40) (Ord. 14392, passed 8-14-1992)

§ 154.054 PERIOD OF PERMIT VALIDITY; EXTENSION.

Permits issued under provisions of this subchapter shall be valid for one year from its date of issue and may be extended for good cause shown.

(2013 Code, § 11-41) (Ord. 14392, passed 8-14-1992)

§ 154.055 INSPECTOR MAY REQUEST PLANS AND SPECIFICATIONS; AMENDMENTS; ADJUSTMENTS OF FEE; SUPPLEMENTARY PERMIT.

(A) Plans and specifications showing the proposed work in the necessary detail shall be submitted if requested by the Electrical Inspector. If a permit is denied, the applicant may submit the revised plans and specifications without payment of any additional fee.

(B) If, in the course of the work, it is found necessary to make any change from the plans and specifications on which a permit was issued, amended plans and specifications shall be submitted.

(C) Fees shall be adjusted compensatory with the change.

(D) A supplementary permit, subject to the same conditions applicable to the original permit, shall be issued to cover the change.

(2013 Code, § 11-42) (Ord. 14392, passed 8-14-1992)

§ 154.056 ANNUAL PERMIT FOR REPAIR AND MAINTENANCE; APPLICATION.

(A) In lieu of individual permits, an annual permit shall be issued after application to any person, firm, corporation or other association, regularly employing a journeyman electrician, for the repair, installation and maintenance of electrical equipment in or on buildings or premises owned or occupied by the applicant for the permit.

(B) An application for an annual permit shall be in writing, shall be accompanied by the requisite fee, which shall be set by resolution, and shall contain a description of the premises on which the work is to be done.

(C) The Electrical Inspector shall have the right to inspect the premises of the permit holder at any reasonable time.

(2013 Code, § 11-45) (Ord. 14392, passed 8-14-1992)

§ 154.057 EMERGENCY WORK.

(A) In emergency situations work may be initiated and completed by licensed electricians without first obtaining a permit.

(B) However, a permit must be obtained within a reasonable time after the passage of the critical period. With this one exception, all emergency work must be done in conformity with the provisions of this chapter and shall be inspected by the Electrical Inspector for full compliance.

(2013 Code, § 11-44) (Ord. 14392, passed 8-14-1992)

§ 154.058 INSPECTIONS; FEE; PROCEDURE.

(A) Fees for inspections shall be set by resolution.
(2013 Code, § 11-45)

(B) (1) Upon the completion of electrical work that has been done under a permit other than annual permit, the person, firm, corporation or other association doing the work shall notify the Electrical Inspector.

(2) The Inspector shall make such inspection within 24 hours, exclusive of Saturdays, Sundays and holidays, after receipt of notice, or as soon thereafter as practicable.

(3) If the Inspector finds the work to be in conformity with the provisions of this chapter, he or she shall issue to the person or association that has done the work a certificate of approval. This certificate shall authorize the use of the work and its connection to the supply of electricity. The Inspector shall deliver to the agency supplying the electricity a certificate of authorization.

(4) A certificate of approval may be issued authorizing the connection and use of a temporary installation. Such certificate shall be issued to expire at a stated time and may be revoked by the inspector for any violation of any of the provisions of this chapter.

(5) No person having charge of the construction, alteration or repair of any building or any other person, shall cover or conceal or cause to be covered or concealed any wire or electrical apparatus for which permit has been issued or for which permit is required before said wiring or apparatus has been inspected and approved by the Electrical Inspector.

(6) The Electrical Inspector shall have authority to remove or cause the removal of lath, plaster, boarding or other covering which may prevent the proper inspection of any electrical apparatus or wiring. The city assumes no responsibility to replace same.

(2013 Code, § 11-46)

(Ord. 14392, passed 8-14-1992)

§ 154.059 INSPECTOR; RIGHT OF ENTRY; GENERAL AUTHORITY.

(A) The Electrical Inspector shall have the right, during reasonable hours and after showing proper identification, to enter any building or premises in the discharge of his official duties to make any inspection, re-inspection or test of electrical equipment that is reasonably necessary to protect the public health, safety and welfare.

(2013 Code, § 11-47)

(B) If the Electrical Inspector finds that any electrical equipment or installation is defective or that it has been installed in conflict with the provisions of this chapter, he or she shall notify the person or association responsible for the electrical equipment or installation by certified mail of his or her findings and order. If the necessary changes or repairs are not completed within 15 days or such longer period as may be specified in the notice, the Inspector shall have the authority to disconnect or order the discontinuation of electrical service to the equipment or installation in question. In emergency, if necessary for safety to persons or property, or if electrical equipment may interfere with the work of the Fire Department, the Inspector shall have the authority to disconnect or cause the disconnection immediately of any such electrical equipment. If fires have damaged the wiring of any building or structure, re-connection to electrical supply shall not be made until authorized in writing by the Inspector.

(2013 Code, § 11-48)

(Ord. 14392, passed 8-14-1992)

§ 154.060 ADVANCE APPROVAL OF CERTAIN MATERIALS; LIST.

The Electrical Inspector may approve in advance electrical materials inspected and approved by the Underwriters' Laboratories, Inc., and other materials of equal or higher quality. The Inspector shall keep on file a list of such approved materials, which list shall be accessible for public reference during regular office hours.
(2013 Code, § 11-49) (Ord. 14392, passed 8-14-1992)

ELECTRICIANS

§ 154.075 SHORT TITLE.

This subchapter shall be known as the "City of Marshalltown, Iowa, Electricians' Licensing Ordinance" and may be so cited.
(2013 Code, § 11-81) (Ord. 14392, passed 8-14-1992)

§ 154.076 PURPOSE.

The purpose of this subchapter is to provide for the examination and licensing of electrical contractors, journeyman electricians and restricted electricians in order to protect the public from hazards to life and property that might arise from improper installation of electrical systems.
(2013 Code, § 11-82) (Ord. 14392, passed 8-14-1992)

§ 154.077 DEFINITIONS.

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

APPRENTICE. A person who, while learning the electrician's trade, is assisting in the installation, alteration or repair of electrical work and while engaged in such work is in the presence of and under direct supervision of a licensed journeyman electrician.

ELECTRICAL CONTRACTOR. Any person, firm, corporation, association or combination thereof, who undertakes or offers to undertake to plan for, lay out, supervise and do electrical work for a fixed sum, price, fee, percentage or other compensation.

ELECTRICAL EQUIPMENT. All electrical material, wiring, conductors, fittings, devices, appliances, fixtures, signs and apparatus or parts thereof.

ELECTRICAL WORK. Installations, alterations, repairs, removals, renewals, replacements, distributions, connections, disconnections and maintenance of all electrical equipment.

JOURNEYMAN ELECTRICIAN. A person who has the necessary qualifications, training, experience and technical knowledge to do electrical work in accordance with the standard rules and regulations governing such work.

LICENSED. Licensed under this subchapter unless otherwise specified.

RESTRICTED ELECTRICIAN. A person that has the necessary qualifications, training, experience and technical knowledge, to do electrical work in accordance with the standard rules and regulations governing such work, but is only permitted to do service, repair, control work and make electrical connections from power panel to the type of appliances or equipment which he or she or his or her employer sells or services.

SHALL. If the word “shall” is used, the meaning is that the act to be performed is mandatory.

(2013 Code, § 11-83) (Ord. 14392, passed 8-14-1992)

§ 154.078 PERSONS EXEMPTED.

The provisions of this subchapter shall not apply to any of the following: regular employees of a public utility who do electrical work for such public utility only; employees who do electrical work for a telephone or telegraph company, and persons, firms or corporations that perform electrical work for such a company, if such electrical work is an integral part of the plant used by such telephone or telegraph company in rendering its duly authorized service to the public; and regular employees of any railroad who do electrical work only as a part of that employment.

(2013 Code, § 11-84) (Ord. 14392, passed 8-14-1992)

§ 154.079 LICENSE REQUIRED; EXEMPTIONS.

(A) No person, firm, corporation, association or combination thereof shall engage in the business of installing, maintaining, altering or repairing any electrical equipment within the scope of this subchapter unless such person, firm, corporation, association or combination thereof shall have obtained from the city an electrical contractor's license, nor shall any electrical contractor employ any but licensed electrical journeymen; except that, the holder of existing electrical licenses granted by the city may be issued renewals of their licenses without taking the examination herein provided for; and also with the exception that no license shall be required in order to execute or perform any electrical work exempted by the provisions of this subchapter.

(2013 Code, § 11-85)

(B) No license is required for the following described work:

(1) Replacement of lamps and fuses, or the connection of portable electrical equipment to permanently installed receptacles;

(2) The installation, alteration or repair of electrical equipment installed by, or for, any electrical supply agency in the generation, transmission, distribution or metering of electricity;

(3) Work involved in the manufacturing, testing, servicing, altering or repairing of electrical equipment or apparatus; except that, this exemption shall not include any permanent wiring;

(4) Work involved in the erection, installation, repairing, remodeling or maintenance of elevators, dumbwaiters or escalators, not including electrical equipment for supplying current to the control panel of elevators, dumbwaiters or escalators; and

(5) The assembly, erection and connection of electrical equipment by the manufacturer of such equipment, but not including any electrical equipment other than that involved in making electrical connections on the equipment itself, or between two or more units of said equipment.

(2013 Code, § 11-86)

(Ord. 14392, passed 8-14-1992)

§ 154.080 LICENSES CLASSIFIED.

(A) *Classes established.* Three classes of licenses may be issued by the city which are designated as:

- (1) Class I: electrical contractor's license;
- (2) Class II: electrical journeyman's license; and
- (3) Class III: electrical restricted license.

(B) *Scope of classes.*

(1) *Class I electrical contractor's license.* No person, firm, corporation, association or combination thereof shall engage in business as an electrical contractor within the city unless such person, firm, corporation, association or combination thereof has obtained from the city an electrical contractor's license. Such a license shall entitle the holder thereof to engage in the business of, and to secure permits for the installation, alteration and repairs of any electrical devices, appliances or equipment.

(2) *Class II electrical journeyman's license.* Such a license shall entitle the holder thereof to perform any work of installing, maintaining, altering or repairing electrical equipment as an electrical journeyman under the direction of the holder of an electrical contractor's license by whom he or she is employed. Or, any person regularly employed by an individual, corporation, firm, association or combination thereof to supervise the maintenance and repair of electrical equipment in a manufacturing, industrial or commercial establishment shall be licensed as a journeyman electrician if the Board of Electrical Examiners finds him or her to be qualified. Such a license shall entitle the holder thereof to undertake the work of, and secure an annual permit for maintaining and repairing electrical devices, appliances and equipment provided that the holder of such license regularly employs, as supervisor, one or more persons certified by the Board of Electrical Examiners as being qualified for such work; and, provided that, such work shall be confined to the premises owned or occupied by the holder of said license, the location of which shall be described in the license.

(3) *Class III electrical restricted license.* Any person regularly employed by an individual, corporation, firm, association or combination thereof to supervise or perform the maintenance or repair of the appliances or equipment which he or his employer sells or services shall be licensed as a restricted electrician.

(2013 Code, § 11-87) (Ord. 14392, passed 8-14-1992)

§ 154.081 LICENSE TO BE DISPLAYED.

Every holder of a license shall keep his, her or their license displayed in a conspicuous place in his, her or their place of business at all times.

(2013 Code, § 11-88) (Ord. 14392, passed 8-14-1992)

§ 154.082 RESTRICTED ELECTRICIANS; APPRENTICES AND HELPERS.

(A) Any person, firm or corporation regularly employed as an appliance dealer or installer or his or her employee performing such service shall be qualified by the Board of Examiners and be licensed as a restricted electrician. Any person so licensed shall work only on the type of appliance or equipment which he or she or his or her employer sells or services.

(2013 Code, § 11-89)

(B) Apprentices and helpers employed to assist a licensed electrician need not be licensed; provided, however, that, such apprentices and helpers perform their work directly under the supervision of a licensed electrician, and shall register with city's Electrical Inspection Department and pay a \$10 annual fee.

(2013 Code, § 11-91)

(C) Before the electrical contractors' or restricted electricians' license is issued, the applicant shall file with the City Clerk a liability insurance policy, certificate of insurance or executed copy thereof, providing coverage for the certificate holder in a sum of not less than \$300,000 for personal injury or death, and not less than \$100,000 for property damage. The insurance aforesaid shall cover the period of the certificate or any renewal thereof and provide that the city will be notified in the event of termination.

(2013 Code, § 11-92)

(Ord. 14392, passed 8-14-1992)

§ 154.083 WORK DONE BY HOMEOWNER.

The owner or owners of a single-family dwelling or mobile home, including the usual accessory buildings and quarters used exclusively for living purposes, may do electrical work without a license if he or she demonstrates his or her capability to do such work to the satisfaction of the Electrical Inspector; provided, however, that, the dwelling or mobile home will be occupied by the owner or owners and that a permit is issued as provided in §§ 154.050 through 154.060 of this chapter.

(2013 Code, § 11-93) (Ord. 14392, passed 8-14-1992)

§ 154.084 BOARD OF EXAMINERS.

(A) *Created; membership; appointment.* There is hereby created a Board of Electrical Examiners, which shall consist of five members. All members of the Board shall be residents of the city. The Electrical Inspector shall be a member, one member shall be a City Council member, one member shall be a licensed journeyman electrician, one a restricted electrician and one member shall be a licensed electrical contractor. The City Council shall appoint these latter four members, including one of its members.

(2013 Code, § 11-94)

(B) *Quorum of Board of Examiners.* Three members of the Board of Electrical Examiners shall constitute a quorum for the transaction of business, but final action by the Board shall require a majority vote of all its members.

(2013 Code, § 11-95)

(C) *Chairperson, Secretary of Board.*

(1) The members of the Board of Examiners shall annually select one of its members to act as Chairperson, who shall preside at all meetings of the Board.

(2) The Electrical Inspector shall serve as Secretary to the Board and shall keep and preserve minutes and records of all proceedings had before the Board.

(2013 Code, § 11-96)

(D) *Terms of members of Board.* The term of each member other than the Electrical Inspector and Council member shall be three years; provided, however, that, the original appointments to the Board shall be made as follows: one member shall be appointed to serve for a period of one year, one member for two years and one member for three years.

(2013 Code, § 11-97)

(E) *Council to provide meeting space, facilities and expenses for Board.* The City Council shall provide suitable space in which the Board of Electrical Examiners may hold its meetings and all necessary equipment, facilities and expenses for conducting examinations.

(2013 Code, § 11-98)

(Ord. 14392, passed 8-14-1992)

§ 154.085 APPLICATIONS FOR EXAMINATION; FEES.

(A) Any person desiring to be licensed as an electrical contractor, a journeyman electrician or a restricted electrician shall make application to the Electrical Inspector for an examination. The Inspector shall provide application forms for this purpose. The completed forms shall include the name of the applicant, his or her home address, his or her business address and a brief resume of his or her training and experience. In addition, an electrical contractor applicant shall have served at least four years as a licensed journeyman electrician. Proof of electrical trade school education may waive up to two years of this requirement.

(2013 Code, § 11-99)

(B) Every person who takes a local examination or re-examination for journeyman electricians' license or restricted electricians' license shall first pay an application fee of \$25, plus the annual license fee. Electrical contractor license

applicants shall first pay an application fee of \$25, plus the annual license fee. Examination fees shall be paid to the City Clerk, and a receipt therefor shall be attached to each application for a license or permit. The first year license fee is included in the application fee. Examination fees shall not be refunded. A \$150 expediting fee shall be assessed to any applicant seeking approval of an application, except at a regularly scheduled exam meeting.

(2013 Code, § 11-100)

(C) (1) The Board shall meet at least twice a year or as often as necessary to conduct examinations of applicants for licenses. An electrical journeyman or restricted electrician applicant shall be entitled to an examination within 45 days after filing application therefor. The examination shall be practical, written or oral, or a combination thereof, and shall be of such a nature as to test the capabilities of all applicants for the same type of license uniformly. The applicant shall clearly demonstrate to the Board his or her qualifications for the particular license for which he or she has applied, and show satisfactory knowledge of the methods and standards for doing work under the National Electrical Code and other provisions of this chapter and ordinances of the city.

(2) A license for electrical contractor work shall be obtained by successfully passing an exam approved by the Electrical Exam Board. Procedures for testing and application forms shall be available at the office of the Electrical Inspector during normal business hours.

(2013 Code, § 11-101)

(Ord. 14392, passed 8-14-1992; Ord. 14716, passed 7-14-2003; Ord. 14737, passed 5-24-2004)

§ 154.086 EMERGENCY PERMIT WITHOUT EXAMINATION.

An emergency permit may be granted by the Inspector without examination, if he or she deems the permittee qualified to do emergency work; and, provided that, it be shown that said permit will prevent financial loss or hardship to said holder or the establishment for which he or she works, said emergency permit shall expire within 30 days from its issuance.

(2013 Code, § 11-102) (Ord. 14392, passed 8-14-1992)

§ 154.087 REEXAMINATION AFTER FAILURE.

If an applicant fails to pass an examination, he or she may reapply for re-examination after the expiration of 30 days and upon payment of another examination fee. Applications shall be limited to no more than two per year.

(2013 Code, § 11-103) (Ord. 14392, passed 8-14-1992)

§ 154.088 LICENSE EXPIRATION, RENEWAL; FEES.

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All licenses shall expire on December 31 and shall be renewed annually upon application of the licensee and payment of the fee to the City Clerk. Any license not renewed prior to December 31 shall expire on December 31 and may not be renewed without examination.

Electrical contractor license	Annual fee \$75
Journeyman electrician license	Annual fee \$20
Restricted electrician license	Annual fee \$75

(2013 Code, § 11-104) (Ord. 14392, passed 8-14-1992; Ord. 14716, passed 7-14-2003)

§ 154.089 ACCOUNTING; FEES.

Examination and license fees shall be turned over to the City Clerk and from such fund shall be paid the costs of examination, issuance of licenses, permits and enforcement of this subchapter.

(2013 Code, § 11-105) (Ord. 14392, passed 8-14-1992)

§ 154.090 RECOGNITION OF LICENSES FROM OTHER CITIES.

Any electrical contractor or journeyman electrician who comes to the city from another city or town that has similar licensing standards and who produces credentials showing proper accreditation as an electrical contractor or journeyman electrician shall be excused from the examination required under this subchapter, and a license shall be issued to him or her upon payment of the required license fee, if the Board approves his or her credentials.

(2013 Code, § 11-106) (Ord. 14392, passed 8-14-1992)

§ 154.091 LICENSE REVOCATION, SUSPENSION.

The Board of Electrical Examiners may revoke or suspend the license of any holder issued under provisions of this subchapter if the holder has substantially violated the provisions of this chapter. The holder shall surrender such license upon receipt by certified mail of written notice of revocation or suspension. A person whose license has been revoked shall not be permitted to apply for another license within one year from the date of revocation.

(2013 Code, § 11-107) (Ord. 14392, passed 8-14-1992)

§ 154.092 APPEALS FROM BOARD ACTION.

In the event any person shall feel aggrieved by any action of the Board of Electrical Examiners, he or she may appeal from such action to the City Council by filing written notice of his or her appeal within ten days from the date of such action. The Council shall give the appealing party and the Examining Board five days' written notice by certified mail of the date, time and place of hearing. All interested persons shall be given opportunity to be heard at such hearing and the Council shall affirm, modify or overrule the action of the Board.

(2013 Code, § 11-108) (Ord. 14392, passed 8-14-1992)

§ 154.093 LICENSE NOT TRANSFERABLE.

It shall be unlawful for any license holder to transfer his or her license or allow it to be used, directly or indirectly by any other person.

(2013 Code, § 11-109) (Ord. 14392, passed 8-14-1992) Penalty, see § 154.999

§ 154.999 PENALTY.

Anyone who violates any of the provisions of this chapter shall, upon conviction, be subject to the penalties in § 10.999(A) of this code of ordinances. In addition thereto, violation of any provision of this chapter shall be a municipal infraction.

(2013 Code, § 11-110) (Ord. 14392, passed 8-14-1992)

CHAPTER 155: SWIMMING POOLS

Section

- 155.001 Definition
- 155.002 Fence required
- 155.003 Openings in fence
- 155.004 Depth of water when fence required

- 155.999 Penalty

§ 155.001 DEFINITION.

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

SWIMMING POOL. Any artificially created body of water, permanent or temporary, enclosed in non-porous material designed to prevent the unintentional escape, that is 18 inches or more in depth at any point and is designed or used for swimming, wading or bathing purposes, other than municipally owned pools.

(2013 Code, § 26.5-1) (Ord. 13031, passed 12-13-1976)

§ 155.002 FENCE REQUIRED.

(A) Every person in possession of land upon which is situated a swimming pool shall at all times maintain on the lot or premises upon which such pool is located and completely surrounding such pool, lot or premises a fence or other structure not less than five feet in height with no openings therein, other than doors or gates, larger than six inches in any dimension; provided, however, that, if a picket or similar fence is erected or maintained, the vertical or horizontal dimension of the openings, other than the gates or doors, shall not exceed six inches.

(B) The design and structural stability shall be in accordance with the Building Code.

(2013 Code, § 26.5-2) (Ord. 13031, passed 12-13-1976; Ord. 14135, passed 7-12-1982)

§ 155.003 OPENINGS IN FENCE.

All gates or doors opening through the enclosure required in § 155.002 of this chapter shall be equipped with self-closing and self-latching devices designed to keep and capable of keeping such gate or door securely closed and latched at all times when not in actual use. Such self-latching device shall be located not less than four feet above the underlying ground surface or otherwise made inaccessible from the outside to small children. Any dwelling or other building on the premises may be incorporated in and considered as constituting a portion of the required barrier. Doors or other openings from any occupied dwelling, as distinguished from a garage, into the required enclosure need not be equipped with self-closing or self-latching devices. The provisions of this section shall not apply to service gates that are permanently locked, except when in actual use.

(2013 Code, § 26.5-3) (Ord. 13031, passed 12-13-1976)

§ 155.004 DEPTH OF WATER WHEN FENCE REQUIRED.

All fencing must be in place with gates when the pool is filled with water to a depth of 18 inches or more at any point.

(2013 Code, § 26.5-4) (Ord. 13031, passed 12-13-1976)

§ 155.999 PENALTY.

Any person violating the provisions of this chapter shall, upon conviction, be punished by a penalty as provided in § 10.999(A) of this code of ordinances.

(2013 Code, § 26.5-5) (Ord. 13031, passed 12-13-1976; Ord. 14970, passed 11-27-2017)

CHAPTER 156: ZONING

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GENERAL PROVISIONS

§ 156.001 SHORT TITLE.

This chapter shall be known as the “Zoning Ordinance of 2010”.
(Ord. 14871, passed 4-12-2010)

§ 156.002 DEFINITIONS.

Words used in present tense shall include the future; the singular shall include the plural and the plural the singular; the word “building” shall include the word “structure” and the word “shall” is mandatory and not directory. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A subordinate building the use of which is incidental to that of the dominant use of the main building or land.

ACCESSORY USE. A use which is incidental to the main use of the premises.

ADULT ENTERTAINMENT BUSINESS. Those places of commerce commonly called “adult book stores”, i.e., a commercial establishment having as a substantial or significant portion of its stock in trade books, films, video cassettes, magazines and other material which is distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas. It also includes establishments which features live performances that are characterized by the exposure of specified anatomical areas, commercial establishments commonly called “adult” or “triple X” theaters or movie arcades, i.e., places used for presentation, for a price, of motion picture films, video cassettes, cable television or any similar visual

media distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ALLEY. A way which affords only a secondary means of access to property abutting thereon.

AMUSEMENT AND RECREATION SERVICES. Uses considered in this category include, but not limited to, the following: dance studios, schools and halls; theatrical producers (except motion picture) and miscellaneous theatrical services; bands, orchestras, actors and other entertainers and entertainment groups; bowling centers; professional sports clubs and promoters; racing, including track operation; physical fitness facilities; public golf courses; coin-operated amusement devices; amusement parks; membership sports and recreation clubs; amusement and recreation services.

ANTENNA. A microwave or television device, dish or array used to transmit or receive telecommunications signals.

ANTENNA HEIGHT. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the antenna site shall be used in calculating the **ANTENNA HEIGHT**.

ANTENNA SUPPORT STRUCTURE. Any antenna or any other structure that supports an antenna or portion thereof.

APARTMENT. A dwelling unit contained in a larger building or designed for use as a residence by a single family.

APARTMENT, EFFICIENCY. A dwelling unit consisting of one principal room, in addition to a bathroom, hallway, closets, which serves as the occupant's living room, bedroom, and, in some instances, the kitchen.

APARTMENT HOTEL/MOTEL. A building designed for or containing both apartments or individual guest rooms or suites of rooms and catering to permanent tenants.

APARTMENT HOUSE OR BUILDING. See **DWELLING, MULTIPLE-FAMILY**.

APPAREL AND ACCESSORY STORES. Uses considered in this category include, but not limited to the following: men's and boy's clothing and accessory stores; women's clothing stores; women's accessory and specialty stores; furriers and fur shops; other women's accessory and specialty stores; children's and infant's wear stores; family clothing stores; men's shoe stores; women's shoe stores; children's and juveniles' shoe stores; family shoe stores; athletic footwear stores.

AUTOMOTIVE DEALERS and GASOLINE SERVICE STATIONS. Uses considered in this category include, but not limited to, the following: new and used car dealers; used car dealers; auto and home supply stores; auto parts, tires and accessories stores; home and auto supply stores; gasoline service stations; gasoline/convenience stores; other gasoline service stations and truck stops; boat dealers; recreational vehicle dealers; motorcycle dealers; automotive, dealers, not elsewhere classified.

AUTOMOTIVE REPAIR, SERVICES AND PARKING. Uses considered in this category include, but not limited to, the following: truck rental and leasing, without drivers; passenger car rental; passenger car leasing; utility trailer and recreational

vehicle rental; automobile parking; top, body, and upholstery repair shops and paint shops; automotive exhaust system repair shops; tire re-treading and repair shops; automotive glass replacement shops; automotive transmission repair shops; automotive repair shops; car washes; automotive services, except repair and car washes.

BASEMENT. The portion of a building between floor and ceiling having a part but not more than one-half of its height above grade. A **BASEMENT** shall not be counted as a story.

BED AND BREAKFAST OPERATION. A private residence which provides lodging and meals for guests and in which the host or hostess resides, and while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel or motel, and serves food only to overnight guests.

BOARDING HOUSE. A building other than a hotel in which the owner is the primary resident and, for compensation and by pre-arrangement, lodging is, or boarding and lodging are, provided for three or more persons not related by blood, marriage or adoption to the owner.

BUFFER. A strip of land established to protect or partially obstruct the view between two adjacent zones or one type of land use from another land use that is incompatible. The area is landscaped and kept in open space use.

BUILDING. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

BUILDING, HEIGHT OF. The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

BUILDING MATERIALS AND GARDEN SUPPLIES STORES. Uses considered in this category include, but not limited to, the following: lumber and other building materials dealers; paint, glass and wallpaper stores; hardware stores; retail nurseries, lawn and garden supply stores; manufactured (mobile) home dealers.

BUSINESS SERVICES. Uses considered in this category include, but not limited to, the following: advertising agencies; outdoor advertising services; radio, television and publishers' advertising representatives; advertising; adjustment and collection services; credit reporting services; direct mail advertising services; photocopying and duplicating services; commercial photography; commercial art and graphic design; secretarial and court reporting services; disinfecting and pest control services; building cleaning and maintenance services; medical equipment rental and leasing; heavy construction equipment rental and leasing; equipment rental and leasing; employment agencies; help supply services; computer programming services; prepackaged software; computer integrated systems; computer processing and data preparation and processing services; informational retrieval services; computer facilities management services; computer rental and leasing; computer maintenance and repair; computer related services; detective, guard and armored car services; security systems services; news syndicates; photo-finishing laboratories; business services.

BULK REQUIREMENTS. Requirements which relate to density, including height, setback, separation distance and lot width.

CANOPY. A roof projecting from and entirely supported by a wall of a building.

CARETAKER UNIT. A residential unit used by businesses in the heavy industrial zone for night watch or security purposes, fully employed by said company.

CARPORT. An addition to a structure supported on one end by the structure and by the ground on the other, used as a storage space for vehicles or other materials, opens to the elements on all sides except the roof and the side which adjoins the structure.

CEMETERY. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CHILD DAY CARE. The care, supervision or guidance of a child under 18 years of age by a person other than the parent, guardian, relative or custodian for periods of less than 24 hours per day, on a regular basis in a place other than the child's home for compensation.

CHILD DAY CARE CENTER. A facility providing child day care for seven or more children for compensation.

CHURCH. Any building the primary use of which is to provide a place in which people may worship.

CLINIC. A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

COMMUNICATIONS TOWER. A tower, pole or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.

CONDITIONAL USE. See **SPECIAL USE.**

CONDOMINIUM. An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A **CONDOMINIUM** may include, in addition, a separate interest in other portions of such real property.

CONVENIENCE STORE. Any retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

DAY CARE. A private residence where care, protection and supervision are provided, for a fee, at least twice a week to children or adults.

DECK. An open, unroofed porch or platform extending from a dwelling or other building, with a floor that is higher than the ground.

DEVELOPMENT. The division of land into two or more parcels, for the construction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure.

DEVELOPMENTAL DISABILITY. A disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

- (1) Attributable to mental retardation, cerebral palsy, epilepsy or autism;
- (2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment and services similar to those required for the persons;

(3) Attributable to dyslexia resulting from a disability described in either divisions (1) or (2) above; or

(4) Attributable to a mental or nervous disorder.

DISTRICT. Any section of the city, in which the zoning regulations are uniform for the use of buildings and premises, the height of buildings the size of yards and the intensity of use.

DUPLEX. See **DWELLING, TWO-FAMILY.**

DWELLING. Any building or portion thereof which is designed or used for residential purposes, but not including a tent, cabin, automobile, mobile home, trailer, recreational vehicle, apartment house, motel or hotel.

DWELLING, MULTIPLE-FAMILY. A building containing three or more dwelling units.

DWELLING, SINGLE-FAMILY. A building containing one dwelling unit.

DWELLING, SINGLE-FAMILY ATTACHED. One or more residential buildings containing one dwelling unit and having a common or party wall separating dwelling units.

DWELLING, TWO-FAMILY. A building containing two dwelling units.

DWELLING UNIT. A room or group of adjoining rooms located within a structure and forming a single habitable unit with facilities which are intended to be used for living, sleeping, eating, cooking and sanitation.

EASEMENT. The right of a person, government agency or public utility company to use public or private land owned by another for a specific purpose.

EATING AND DRINKING PLACES. Uses considered in this category include, but not limited to, the following: restaurants; cafeterias; refreshment places; other eating places; social caterers; contract feeding; ice cream and frozen yogurt shops; drinking places.

ELEVATION.

(1) For buildings having walls adjoining one street only, the **ELEVATION** of the sidewalk at the center of the wall adjoining the street;

(2) For buildings having walls adjoining more than one street, the average of the **ELEVATION** of the sidewalks at the centers of all walls adjoining the streets;

(3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building; and

(4) Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the City Engineer.

ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED SERVICES. Uses considered in this category include, but not limited to, the following: engineering services; architectural services; surveying services; accounting, auditing and bookkeeping services; commercial physical and biological research; commercial economic, sociological and educational research; non-commercial research organization; testing laboratories; management services; management consulting services; public relations services; facilities support management services; business consulting services.

FAMILY. An individual; two or more persons related by blood or marriage or by order of law; or a group of not more than four persons (excluding servants) who need not be related by blood or marriage or by order of law, living together in a dwelling unit.

FAMILY HOME. A community-based residential home which is licensed as a residential care facility under I.C.A. Ch. 135C or as a child foster care facility under I.C.A. Ch. 237 to provide room and board, personal care, habilitation services and supervision in a family environment exclusively for not more than eight persons with a developmental disability or a brain injury and any necessary support personnel. However, **FAMILY HOME** does not mean an individual foster care family licensed under I.C.A. Ch. 237.

FARM. Agricultural activity, including forests and forest products; harvest and management; dairy farming; livestock grazing and pasturage; truck gardening; the raising of crops, fruit and nursery stock; fish farms; the harvesting, processing, packaging, packing, shipping and selling of products produced on the premises; and incidental farm operations such as machinery, farm equipment and domestic repair and construction; excluding feedlots.

FEEDLOT. Any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats, poultry, fowl, swine and other similar animals are maintained in close quarters for the purpose of raising such livestock for final shipment to market.

FENCE. An enclosure or barrier constructed of regionally appropriate materials used as a boundary or as a means of screening, protection or confinement.

FILLING STATION. Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels or oils. When such dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

FRONTAGE. The length of the front boundary line of a lot measured along the street line.

FUNERAL HOME. A building or part thereof used for human funeral services. Where a **FUNERAL HOME** is permitted, a funeral chapel shall also be permitted.

FURNITURE AND HOME FURNISHINGS STORES. Uses considered in this category include, but not limited to, the following: furniture stores; floor covering stores; drapery, curtain and upholstery stores; miscellaneous home furnishings stores; household appliance stores; radio, television and electronics stores; computer stores; computer software stores; record and prerecorded tape stores; musical instrument stores.

GARAGE, PRIVATE. An accessory building or portion of a building in which one or more motor vehicles are housed, but in which no business, service or industry is carried on, except the leasing of space as is herein permitted. A carport is a **PRIVATE GARAGE**.

GARAGE, PUBLIC. A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately-owned vehicles.

GARAGE, REPAIR. A building designed and used for the storage, care, repair or refinishing of motor vehicles, including both minor and major mechanical overhauling, paint and body work.

GARAGE, STORAGE. A building or portion thereof designed or used exclusively for term storage by prearrangement for motor-driven vehicles, at which motor fuels and oils are not sold, nor are motor-driven vehicles equipped, repaired, hired or sold.

GENERAL DEVELOPMENT PLAN. A preliminary development plan for a tract of land that will be in a single development operation or programmed in a series of development stages.

GENERAL MERCHANDISE STORES. Uses considered in this category include, but not limited to, the following: department stores; conventional department stores; discount or mass merchandising department stores; national chain department stores; miscellaneous general merchandise stores; warehouse clubs; catalog showrooms; other miscellaneous general merchandise stores; grocery stores; supermarket and other general-line grocery stores; convenience food stores; convenience food/gasoline stores; delicatessens; meat and fish (seafood) markets; fruit and vegetable markets; candy, nut and confectionery stores; dairy product stores; retail bakeries; retail bakeries - baking and selling; retail bakeries - selling only; miscellaneous food stores.

GROUP HOME. A property used for the residential care of tenants who are mentally or physically ill, wards of the state or any other similar group deemed appropriate by the Zoning Administrator.

HALFWAY HOUSE. Also known as an **EX-OFFENDER REHABILITATION FACILITY.** A property used to temporarily house ex-offenders in a rehabilitation or transitioning period.

HEALTH SERVICES. Uses considered in this category include, but not limited to, the following: offices and clinics of doctors of medicine; offices and clinics of dentists; offices and clinics of doctors of osteopathy; offices and clinics of doctors of chiropractors; offices and clinics of optometrists; offices and clinics of podiatrists; offices and clinics of health practitioners; skilled nursing care facilities; intermediate care facilities; nursing and personal care facilities; general medical and surgical hospitals; psychiatric hospitals; specialty hospitals, except psychiatric; medical laboratories; dental laboratories; home health care services; kidney dialysis centers; specialty outpatient facilities; health and allied services.

HOME-BASED BUSINESS. Any business, profession, occupation or trade where the business or activity is not conducted at the place of residence, but where recordkeeping, bookkeeping and similar activities are permissible at the place of residence. **HOME-BASED BUSINESSES** shall not change the residential character of the residence, nor shall there be any display that will indicate from the exterior that the premises is being utilized in part for any purpose other than that of a dwelling.

HOME OCCUPATION. Any business, profession, occupation or trade conducted on-site for gain or support which is clearly secondary to the main use of the premises as a dwelling, and does not change the character thereof, or that in connection with which there is no display that will indicate from the exterior that the premises is being utilized in part for any purpose other than that of a dwelling.

HOME SCHOOL. Any educational service instructed by private teachers for only related persons, licensed and operating under current state home school education requirements.

HOTEL. A building in which lodging is, or boarding and lodging are, provided and offered to the public for compensation, wherein is maintained an inside lobby or office

supervised by a person in charge at all hours, and through which all tenants must pass to gain access to all rooms.

INDUSTRY, HEAVY. A use engaged in the basic processing and manufacturing of materials or products predominately for extracted or raw materials, or a use engaged in storage or, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

INSTITUTION. A non-profit organization of a public character, or a building occupied by such organization.

JUNK. Old dilapidated, scrap or abandoned metal, paper, packaging materials, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles and parts thereof.

JUNK YARD. An area of any lot 200 square feet or more in size which is used for the storage, abandonment or keeping of junk, including scrap metals or scrap materials, or for the abandonment or dismantling of machinery, automobile or other vehicles or parts thereof.

LAUNDROMAT. A business that provides home type washing, drying and/or ironing machines for hire to be used by customers on the premises.

LEGAL SERVICES. SIC Major Group 81.

LOADING SPACE. A surfaced area, enclosed within the building or unenclosed, having minimum dimensions of ten feet by 25 feet, or ten feet by the width of the building should this width of the building be less than 25 feet, for the loading or unloading of trucks, and connected to a street or alley by a surfaced driveway which affords satisfactory ingress and egress for trucks.

LODGING OR ROOMING HOUSE. See **BOARDING HOUSE**.

LOT. A parcel of land occupied or intended for occupancy by a use permitted in this chapter and having its principal frontage on a street.

LOT, CORNER. A lot situated at the intersection of two or more streets.

LOT, DOUBLE FRONTAGE. A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

LOT OF RECORD. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder or a parcel of land, the deed of which is recorded in the office of the County Recorder.

LOT, ZONING. A single tract of contiguous land to be used or developed as one unit under single unified ownership or control and which meets all minimum requirements and provisions of this chapter.

LOW INCOME ELDERLY HOUSING STRUCTURE. A building the residents of which meet the income standards and age qualifications set forth by the Federal Government.

MANUFACTURED HOME. A factory built single-family structure, which is manufactured or constructed after 6-15-1976 under the authority of 42 U.S.C. § 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a

place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a **MANUFACTURED HOME** unless it has been converted to real property and is taxed as a site built dwelling. For the purposes of these regulations, **MANUFACTURED HOMES** shall be considered the same as a single-family, detached dwelling.

MISCELLANEOUS REPAIR SERVICES. Uses considered in this category include, but not limited to, the following: radio and television repair shops; refrigeration and air-conditioning service and repair shops; electrical and electronic repair shops; watch, clock and jewelry repair; re-upholstery and furniture repair; welding repair; armature rewinding shops; repair shops and related services.

MISCELLANEOUS RETAIL STORES. Uses considered in this category include, but not limited to, the following: drug stores; proprietary stores; liquor stores; used merchandise stores; general-line sporting goods stores; specialty-line sporting goods stores; book stores; stationary stores; jewelry stores; hobby, toy and games shops; camera and photographic supply stores; gift, novelty and souvenir shops; luggage and leather goods stores; sewing, needlework, and piece goods stores; catalog and mail-order houses; mail-order houses, department store merchandise; mail-order houses, other general merchandise; mail-order houses, specialized; automatic merchandising machine operators; direct selling establishments; direct selling, furniture, home furnishings and equipment; direct selling, mobile food service; direct selling, books and stationary; direct selling, other; fuel oil dealers; liquefied petroleum gas (bottled gas) dealers; fuel dealers, not elsewhere classified; florists; tobacco stores and stands; news dealers and newsstands; optical goods stores; miscellaneous retail stores, not elsewhere classified; pet shops; art dealers.

MOBILE HOME. Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in the state.

MOBILE HOME PARK. Any site, lot, field or tract of land upon which two or more occupied mobile home trailers are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or other enclosure used or intended for use as a part of the equipment of such mobile home park.

MODULAR HOME. Any single-family dwelling unit manufactured, in whole or in components, at a place other than the location where it is placed; which is assembled, whole or in components, at the location where it is to be permanently located; which rests on a permanent foundation or slab; which does not have wheels or axles affixed as a part of its normal construction; and which does not require a license by any agency as a motor vehicle, special equipment, trailer, motor home or mobile home.

MOTEL. A building other than a hotel where lodging is provided and offered to the public for compensation, and intended primarily for automobile transients and having a parking space conveniently located to each lodging unit.

MOTION PICTURES. Uses considered in this category include, but not limited to, the following: motion picture and video tape production; services allied to motion picture

production; motion picture and video tape distribution; services allied to motion picture distribution; motion picture theaters, except drive-in; drive-in motion picture theaters; video tape rental.

MUSEUMS, ART GALLERIES and BOTANICAL AND ZOOLOGICAL GARDENS. Uses considered in this category include, but not limited to, the following: museums and art galleries; arboreta and botanical or zoological gardens.

NON-CONFORMING USE. The use of land or a building or a portion thereof which use does not conform to the use regulation of the district in which it is situated.

NURSERY HOME. Any institution, building or agency in which any accommodation is primarily maintained, furnished or offered for compensation for the care of three or more preschool aged children.

NURSING HOME. Any institution, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding 24 hours of two or more non-related aged or infirm persons requiring or receiving chronic or convalescent care, and shall include sanitariums, rest homes or related institutions.

OFFICE. A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

ON-SITE LIVING QUARTERS. A living space used in conjunction with security purposes in selected commercial zoning districts, subject to a special use permit.

OPEN SPACE. An area that is intended to provide light and air, and is designed for environmental, scenic or recreational purposes. **OPEN SPACE** may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. **OPEN SPACE** shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

PARKING LOT. A surfaced area used for parking of vehicles, whether public or private, which is connected via ingress and egress to the public street system or other use appropriate for vehicular use.

PARKING, ROW. A row of vehicles in a parking lot utilizing the same lane for parking and backing-up, generally facing the same direction.

PARKING SPACE. A surfaced area, other than a street or alley, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet, with a minimum width of nine feet and a minimum length of 18 feet, exclusive of driveways (except in single-family and two-family dwelling units), permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

PATIO. A roofless space adjacent to a structure that is constructed at or above ground level out of brick, concrete and other decorative materials for the purpose of recreation or aesthetics.

PERSONAL SERVICE ESTABLISHMENTS. An establishment engaged in providing services generally involving the care of the person or person's apparel. Such establishments include, but are not limited to, the following: laundry, cleaning and garment services; photographic studios; beauty shops; barbershops; shoe repair shops, shoeshine parlors; and other establishments engaged in providing personal services,

such as steambaths, reducing salons and health clubs, clothing rental, locker rental and porter services.

PERSONAL SERVICES. Uses considered in this category include, but not limited to, the following: power laundries, family and commercial; garment pressing and agents for laundries and dry-cleaners; linen supply; coin-operated laundries and dry-cleaning; dry-cleaning plants, except rug cleaning; carpet and upholstery cleaning; industrial laundries; laundry and garment services; photographic studios, portrait; beauty shops; barber shops; shoe repair shops and shoe shine parlors; funeral service and crematories; and tax return preparation services.

PLANT NURSERY. Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

PRINCIPAL BUILDING. A building in which the primary use of the lot on which the building is located or conducted.

REDEVELOPMENT. Structurally altering the building, changing the facade exterior finish or appearance, with the exception of routine maintenance work. Routine maintenance work includes painting, replacing windows, tuck pointing, patching and other similar activities.

RESTAURANT. A business where the principal business is the dispensing and consumption of edible foodstuff and/or beverage at indoor tables, including a café, cafeteria, coffee shop, delicatessen, lunch room, tearoom, dining room, bar cocktail lounge or tavern.

RESTAURANT, DRIVE-IN/CARRY-OUT. A pedestrian or auto-oriented use whose principal operation is the dispensing of edible foodstuff and/or beverage for consumption in automobiles, at indoor or outdoor tables, at stand-up counters or to be carried off the premises. The total seating area, if provided, is less than 50% of the floor area.

RESTAURANT, FAST FOOD. An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.

RIGHT-OF-WAY. An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

ROW HOUSE. See **DWELLING, SINGLE-FAMILY, ATTACHED.**

RV. Also known as **RECREATIONAL VEHICLE.** Any vehicle, camper, trailer or motor home, temporarily used for living and/or sleeping purposes.

SCREENING. The method by which a view of one site from another adjacent site is shielded, concealed or hidden. **SCREENING TECHNIQUES** include fences, walls, hedges, berms or other features.

SELECTED EDUCATIONAL SERVICES. Uses considered in this category include, but not limited to, the following: libraries; data processing schools; business and secretarial schools; vocational schools; schools and educational services.

SELECTED MEMBERSHIP ORGANIZATIONS. Uses considered in this category include, but not limited to, the following: business associations; professional membership organizations; civic, social and fraternal associations.

SERVICE STATION. Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication and minor repairs are conducted. **SERVICE STATIONS** shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting and body fender work are conducted.

SETBACK. The required minimum horizontal distance between the building line and the related front, side or rear property line.

SIGNS. See §§ 156.550 through 156.552 of this chapter for definitions related to signage.

SITE PLAN. A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, parking, sidewalks and principal site development features proposed for a specific parcel of land.

SMALL HOSPITALITY OPERATION. A single-family detached dwelling, or portion thereof, where food and beverages may be served for personal or organizational events. The operator of the operation shall live on the premises. There shall be no display or architectural style elements that indicate that the building is being utilized in any part for any purpose other than that of a dwelling. Appropriate parking, hours, odors, litter and other controls shall be placed upon the permit to protect the residential character of the neighborhood.

SMALL WIND ENERGY SYSTEM (SWES). Any structure designed to harness, use or store energy from wind power designed and built for on-site use under 20 feet in height attached or supported by a primary or accessory building. This definition shall not include decorative windmills that are incapable of producing or storing energy.

SOCIAL SERVICE. Uses considered in this category include, but not limited to, the following: individual and family social services; job training and vocational rehabilitation services; child day care services; residential care; social services.

SPECIAL USE. A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Board of Adjustment, and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered:
(a) Human genitals, pubic region;
(b) Buttock; and
(c) Female breast below a point immediately above the top of the areola.

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

(1) Human genitals in a state of sexual stimulation or arousal;
(2) Acts of human masturbation, sexual intercourse or sodomy; and
(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STABLE, PRIVATE. An accessory building in which horses are kept for private use and not for remuneration, hire or sale.

STABLE, PUBLIC. An accessory building in which horses are kept for commercial use including boarding, hire and sale.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

STREET. A public or private thoroughfare which affords the principal means of access to abutting property.

STREET LINE. A dividing line between a lot or parcel of land and a contiguous street.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts and pergolas.

STRUCTURAL ALTERATIONS. Any substantial change in the foundation, roof or exterior walls, excepting such repairs or replacements as may be required for the safety of the building.

SURFACE, PARKING DRIVEWAY AND ENTRANCE. The composition of such surfaces shall be constructed of concrete, blacktop, asphalt, bricks, gravel or crushed rock, constructed and maintained in quality, quantity and size to prevent the creation of ruts in, or deterioration or damage to, the driveway or soil beneath from the operation or parking of motor vehicles and/or vehicles thereon.

TALL STRUCTURE. Any structure the top of which is more than 50 feet above grade.

TANDEM PARKING. Parking of vehicles end-to-end rather than side-to-side.

TAVERN. An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks may be available for consumption on the premises.

TELECOMMUNICATIONS. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TEMPORARY RV PARK. A parcel of industrial land that is temporarily used as an RV park, unrelated to the R-6 Mobile Home District and/or any other RV campground.

TEMPORARY STRUCTURE. Anything constructed or erected, which will be used in conjunction with a temporary use, including, but not limited to, buildings, tents and canopies.

TEMPORARY USE. Any activity in a commercial or industrial district including, but not limited to, the retail sales of goods and services.

TEMPORARY USE, LONG-TERM. A temporary use with duration of more than seven consecutive days or more than seven days within any month, not to exceed 180 days per calendar year.

TEMPORARY USE, SHORT-TERM. A temporary use with a maximum duration of seven consecutive days or less.

THROWN ICE. Ice or other related material discarded or “thrown” from a wind turbine blade, whether moving or still.

TOWNHOUSE. See **DWELLING, SINGLE-FAMILY, ATTACHED.**

TOURIST HOME. A building other than a hotel with which there is used only one sign not more than two square feet in area, where lodging is offered and provided to the public for compensation for not more than 20 individuals and intended primarily for automobile transients.

TRUCK GARDEN. A farm devoted to the growing of fruits or vegetables for marketing.

UNIT. When referring to a dwelling, see **DWELLING UNIT.**

USE. The purpose for which land or a building thereon is designed, arranged or intended, for which it is occupied or maintained, let or leased.

VARIANCE. A relaxation by the Board of Adjustment of the dimensional regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

WALL. An upright structure constructed of wood, concrete, masonry or similar materials, whose vertical surface is intended to prevent the passage of light, and which is used as a boundary or as a means of screening, protection, confinement or support. In this context, this term shall not apply to supporting structures on the main or accessory buildings, nor shall it apply to retaining walls.

WAREHOUSE. A building used primarily for the storage of goods and materials.

WIND TURBINE. Any structure over 15 feet that is supported, wholly or in part, by the ground, designed to harness, use or store energy from wind power.

WIND TURBINE HEIGHT. The vertical distance measured from the base of the structure to the top of the tallest blade when the blade is parallel and extending over the base structure.

YARD. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

YARD, FRONT. A yard extending across the front of the lot between the side lot lines and being in depth the minimum horizontal distance between the street line and the main building or any projection thereof other than the projections of the usual steps, terraces, balconies or porches covered only by a covering attached to and supported entirely by or from the front wall of such main building. On corner lots, the **FRONT YARD** shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR. A yard extending across the rear of a lot and being in depth the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection 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.

YARD, REQUIRED. The minimum open space required between a lot line and the buildable area of a lot, unoccupied and un-obstructed from ground to sky, except as otherwise specified in this chapter.

YARD, SIDE. A yard between the main building and the side lot line and extending from the required front yard to the required rear yard, and being in width the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof other than the projection of uncovered steps, unenclosed balconies or unenclosed porches.

ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONE. See **DISTRICT**.
(Ord. 14871, passed 4-12-2010)

§ 156.003 CHANGES, AMENDMENTS AND REZONINGS.

(A) From time to time, changes to this chapter shall be necessary. Changes may be made by the city at any time through the procedure outlined by city and state code. If a resident, citizen or business in or relating to the city requests a zoning change or amendment to this chapter, they shall follow the following procedure.

(1) The applicant must pay a fee set by resolution.
(2) The applicant must fill out a required application form.
(3) The applicant may be required to complete research related to said change or amendment and present research to the appropriate governing bodies for discussion.

(4) The amendment process shall take place through the steps outlined by city and state code.

(5) The applicant may be required to be present at all meetings where the proposed change is discussed.

(B) If a change or amendment is proposed by an applicant and the change or amendment is not approved for various reasons the issue may not be considered for a period of 12 months from the date of the last public meeting of the change or amendment. Staff has sole discretion as to whether subsequent proposals are sufficiently different from previous proposals within the same 12-month period.
(Ord. 14871, passed 4-12-2010)

DISTRICT REGULATIONS

§ 156.015 DISTRICTS ESTABLISHED.

For the purpose of this chapter, the city is hereby divided into the following districts:

A-1	Agricultural Reserve District
R-1	Low Density Residential District

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R-2	Low Density Residential District
R-2A	Low Density Residential District
R-3	Medium Density Residential District
R-4	Medium Density Residential District
R-5	High Density Residential District
R-6	Mobile Home Residence District
ED	Education District
TN	Traditional Neighborhood
NC	Neighborhood Commercial
CC	Community Commercial
OP	Office Park
CBD	Central Business District
GC	General Commercial
PC	Planned Commercial
RC	Regional Commercial
M1	Light Industrial District
M2	Heavy Industrial District
PUD	Planned Unit Development

(Ord. 14871, passed 4-12-2010)

§ 156.016 MAP.

(A) The boundaries of these districts are shown upon the map made part of this chapter, which map is designated as the “District Map of the City of Marshalltown, Iowa”. The District Map made a part of this chapter and on file in the office of the Engineering Department of the city and all notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the District Map and all such notations, references and other information shown thereon were fully set forth or described in metes and bounds herein.

(B) Where there is uncertainty as to the boundaries of the districts as shown on the District Map of the city, the following rules shall apply.

(1) Where boundaries are shown approximately following street and alley lines, such street and alley lines shall be interpreted to be the boundaries.

(2) Where boundaries are indicated so that they approximately follow lot lines and are not more than 15 feet distant therefrom, such lot lines shall be interpreted to be the boundaries.

(3) In unsubdivided property where a district boundary divides a parcel of land, the boundary shall be determined by the use of the scale appearing thereon.

(4) Whenever any street, alley or other public way is vacated by action of the Council of the city, the zoning district adjoining each side of such street, alley or public way shall be extended automatically to the center of such vacated area.

(5) Streets, alleys, places and public ways are not included within any district.

(Ord. 14871, passed 4-12-2010)

§ 156.017 GENERAL REGULATIONS AND PROVISIONS.

(A) *Residential dwellings.* All residential dwellings for which building permits have been issued after 11-1-1985 shall meet the following standards.

(1) The principal portion of such building shall have a minimum dimension of not less than 20 feet.

(2) The principal portion of such building shall have a continuous and complete frost protected perimeter foundation constructed of materials as required by the Building Code for regular foundation construction.

(3) The building shall have for the exterior wall covering either:

- (a) Wood or masonry finish or its appearance; and/or
- (b) Vertical or horizontal grooved siding or lap siding or its

appearance.

(4) Metals roofs shall be allowed if the following conditions are met or otherwise approved by the Site Plan Review Board.

(a) Opening shall not be seen on the fascia and shall be completely covered with material designed and built for metal roofing systems.

(b) Galvanized steel shall not be used.

(c) Roof and fastener color shall be the same, with the exception of trim pieces.

(B) *Multiple buildings upon on lot.*

(1) More than one main institutional, public or semi-public apartment, commercial or industrial building may be located upon a lot; provided, no such building or portion thereof is located outside the buildable area of the lot.

(2) Residential flexibility standards (§§ 156.535 through 156.538 of this chapter) may also permit more than one residential unit to be placed on a single lot so long as the lot is located in an R-4 or R-5 Zoning District.

(3) Commercial/industrial and residential uses are not allowed on the same lot with exceptions to the CBD, TN and M2 Districts.

(C) *Architectural standards.*

(1) Exterior siding of dwellings built or used for residential purposes must meet the current Building Code.

(2) Metal siding must consist solely of designs considered an “architectural system”. This includes no metal siding that shows seams, bolts or screws. (Ord. 14871, passed 4-12-2010)

§ 156.018 USE REGULATIONS.

(A) No building shall be erected, or structurally altered, nor shall any building or land be used, except for a use permitted in the district in which the building or land is located.

(B) Existing railroads and utilities may continue to be operated and maintained in dwelling and commercial districts, but no new railroad or utility structure other than the usual poles, wires and underground utilities shall be established in such districts, except when so authorized by the City Council.

(C) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary building shall be removed upon completion of the construction work.

(D) On corner lots, the yard with the least street frontage shall be considered the front yard, regardless of address or building orientation.

(E) For non-corner lots with two street frontages, the lesser-classified road shall be considered the front yard. For corner lots with three frontages, the lesser-classified road shall be considered the front yard. If no street hierarchy exists, the orientation of the building shall dictate the front yard.

(F) Trailers, boxcars and other structures not originally built for permanent placement shall not be allowed on residential lots. These structures may be used within the normal operation of business on commercial or industrially zoned land. If used for storage, the structures must be located at the rear of the property. If a lot has more than one street frontage, they must be located on the side facing a lesser-classified road. (Ord. 14871, passed 4-12-2010)

§ 156.019 HEIGHT REGULATIONS.

(A) No building shall be erected, or structurally altered, to exceed the height limit herein established for the district in which the building is located.

(B) Churches, schools and hospitals may be erected to a height of not to exceed 75 feet.

(C) Property elevation shall be established by the average elevation under the building footprint.

(D) The height regulations of this chapter shall not apply to church spires, belfries, monuments, tanks, water towers, fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke

stacks, emission towers, conveyors, flag poles, radio and television towers and antenna or aerials. Towers and antennas are further addressed in §§ 156.565 through 156.570 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.020 AREA REGULATIONS.

(A) General.

(1) No building shall be erected, or structurally altered, except in conformity with the area regulations of the district in which the building is located.

(2) Every part of a required yard shall be open to the sky, except where accessory buildings are permitted in a rear or side yard, and except for the ordinary projections of sills, belt courses, cornices and ornamental features projecting not to exceed 18 inches.

(3) The minimum yards and other open spaces, including lot area per family, required by this chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced below the district requirements of this chapter.

(B) Front yard.

(1) Uncovered steps or paved terraces may project into the front yard for a distance of not exceeding ten feet, but this shall not permit a roof.

(2) (a) Canopies covering a porch supported entirely by or from the front wall of the main building shall be at least seven feet high from ground level and shall not extend more than seven feet into the required setback, as is herein defined, and shall not extend closer than five feet to the front lot line upon which such building is located.

(b) This provision relating to projections into the front yard shall apply in all zoning districts where a front yard is required.

(C) Side yard.

(1) A carport or canopy shall be considered a part of the structure which it is attached to and may project into the side yard or rear yard; provided, every part of such carport or canopy is unenclosed and is set back at least the minimum required for that district.

(2) On a corner lot in any dwelling district, the width of the yard along the side street line shall be the same as the required front yard from the adjacent neighbors.

(D) *Rear yard.* Open or lattice enclosed fire escapes, fire-proof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted for a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.

(E) Lot area per family.

(1) A single lot having less area than required area for the district in which it is located which was a lot of record on the effective date of this chapter may be used for any purpose permitted in that district.

(2) Where two or more vacant adjacent lots under common ownership, each having less than required for the district in which they are located and which were lots of record on the effective date of this chapter, that area shall be redivided as to conform with the area regulations of that district before any building is erected or placed thereon.

(Ord. 14871, passed 4-12-2010)

§ 156.021 VISUAL CLEARANCE AT INTERSECTIONS.

(A) On a corner lot where required yards exist, no fence, wall, trees, shrubbery, sign or any other kind of structure or obstruction to vision with openings of less than 70% of its vertical surface area shall be erected, placed, planted, be allowed to grow or be maintained between a height of two feet and eight feet above the established curb grade at the intersection of streets on the part of any yard located within the triangular zone formed by the intersecting property lines and a line connecting two points on said property lines 20 feet from their point of intersection.

(B) At intersections involving one-way streets, unusual intersection configurations or other unusual conditions, the appropriate city authority shall determine the limits of the visual clearance zone, but in no case shall the limits exceed the requirements of division (A) above.

(Ord. 14871, passed 4-12-2010)

§ 156.022 FENCES AND WALLS.

Fences and walls legally established or constructed prior to 10-10-1989 shall be classified as legal structures and shall not be required to be altered or removed.

(A) *Height limitations.*

(1) In any residential R district, fences and walls not exceeding four feet in height may be located within the required front yard.

(2) In any residential R district, fences and walls not exceeding six feet in height may be located within the required side and rear yards.

(3) In any commercial district or industrial district west of 18th Avenue, fences and walls not exceeding eight feet in height may be located within any required yard. A one-foot extension consisting of strands of barbed wire may be used at the top of any fence or wall with a minimum average height of six feet which is used for security or protective purposes.

(4) In any commercial district or industrial district east of 18th Avenue, fences and walls not exceeding ten feet in height may be located within any required yard. A one-foot extension consisting of strands of barbed wire may be used at the top of any fence or wall with a minimum average height of six feet which is used for security or protective purposes.

(5) Special fence requirements such as fencing provided around parks, recreation and school facilities may be erected to a height in excess of the above limits upon approval of the Zoning Administrator.

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(6) Fences and walls located on corner lots shall comply with the visual clearance requirements in § 156.021 of this chapter.

(7) Fences in the A1 District used in conjunction with residential uses shall abide by divisions (A)(1) and (A)(2) above.

(8) Fences in the A1 District used on conjunction with farming operations shall abide by division (A)(3) above.

(9) Decorative walls may be used as a boundary marker in residential subdivisions, not to exceed four feet in average height the front yard and six feet in average height the rear and side yards; provided, they are approved at the time of the preliminary plat.

(10) In an area where residential and non-residential uses abut one another, any part of the non-residential lot that could be considered the same as the adjacent front yard shall abide by division (A)(1) above.

(11) All residential fences in the CBD and TN Districts shall abide by the regulations described in division (A)(1) above. This shall not apply to approved outdoor storage or loading facilities, in which case those areas may follow division (A)(3) above.

(B) *Approved residential fence materials.*

(1) Fences shall be constructed using materials commonly used for and suitable for residential-style fencing, including, but not limited to, brick, stone, wrought iron, vinyl, chain link (with a top rail support), split rail with treated wood in compliance with division (B)(3) below, stockade or board-on-board wood. Finished side must face the adjoining property.

(2) Used or reclaimed wood or other materials may be used provided they are in good condition and can be reasonably expected to last as long as new materials.

(3) Any part of a wood fence that touches concrete or contacts the ground must be pressure-treated wood or wood that is naturally resistant to decay and insects, such as cedar or redwood. Fasteners and hardware used with pressure treated wood shall be hot dipped galvanized, stainless steel or coated per manufacturers standards for use with such woods.

(4) Side or rear yard garden plots may use green garden fence, woven wire or chicken wire; provided, it does not exceed five feet in height using steel posts not exceeding five feet in height or any approved materials from this division (B).

(C) *Prohibited residential fences and materials.* No person or property owner shall install:

(1) An electric, razor wire, barbed, chicken, woven, snow (except from November 1 through March 31), plastic safety, plastic garden, concrete block or grapestake fence;

(2) Any wire or chain link-type fence with the cut or salvage end of the fence exposed at the top;

(3) A fence which creates a hazard to users of the street, sidewalk or to nearby property;

(4) A fence composed solely of fence posts;

(5) An incomplete fence, consisting only of posts and supporting members;

(6) No fence shall be constructed of used or discarded materials in disrepair, including, but not limited to, complete or partial pallets, tree trunks, trash, tires, junk or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers or utility poles shall not be used for, or in the construction of a fence;

(7) Agricultural fence products such as creosote posts, steel posts, wire panels, field fence, high tensile wire, tube gates and the like; and

(8) Any material not listed in division (B)(1) above is not approved.

(D) *Maintenance of fences and walls.* Fences and walls shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public. Fences and walls shall not create an appearance of patchwork, rust or peeling paint which is indicative of a state of disrepair. Every fence and wall installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.

(Ord. 14871, passed 4-12-2010)

§ 156.023 DECKS AND PATIOS.

(A) Front yard decks and patios may extend into the required front yard setback ten additional feet.

(B) Rear and side yard decks must comply with the setbacks listed in their respective district.

(C) Fences and screening for decks, patios, pools and other structures on the interior of the yard shall not exceed seven feet above the floor or ground level of said structure; provided, they are attached or directly adjacent to the primary building on the lot and meet the underlying primary building setbacks.

(Ord. 14871, passed 4-12-2010)

§ 156.024 ACCESSORY BUILDINGS.

(A) Any accessory building that is not a part of the main building shall be located not less than five feet from any portion of the main building or any other structure on the lot (not including fences).

(B) The following size requirements shall apply to any accessory building located entirely in the required rear yard:

SINGLE-FAMILY AND TWO-FAMILY RESIDENCES	
Lots having a total lot area less than 1/2 acre	Shall not occupy more than 30% of the required rear yard
	Maximum size of an accessory building shall not exceed 1,000 square feet
	Maximum sidewall height of 10 feet
	Maximum peak height of 15 feet

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Lots having a total lot area of at least 1/2 acre, but less than 1 acre	Shall not occupy more than 30% of the required rear yard
	Maximum size of an accessory building shall not exceed 1,600 square feet
	Maximum sidewall height of 12 feet
	Maximum peak height of 17 feet
Lots having a total lot area of at least 1 acre	Shall not occupy more than 30% of the required rear yard
	Maximum size of an accessory building shall not exceed 3,000 square feet
	Maximum sidewall height of 14 feet
	Maximum peak height of 19 feet
MULTI-FAMILY RESIDENCES	
Lots having a total lot area of any size	Shall not occupy more than 30% of the required rear yard
	Maximum size of an accessory building shall not exceed 300 square feet per unit
	Maximum sidewall height of 10 feet

(C) Any accessory building located entirely in the required rear yard shall not be nearer than three feet to any lot line.

(D) Any accessory building located entirely or in part in a side yard shall be erected in conformity with the side yard regulations of the district in which the building is located. On a corner lot in any dwelling district, the width of the yard along the side street line shall not be less than one-half of the depth of the front yard.

(E) Where the rear lot line of a corner lot is the side lot line of the adjoining lot, the side yard regulations of the district shall apply to the location of the accessory building.

(F) No accessory building or part thereof shall be located in the front yard.

(G) (1) Accessory buildings shall be architecturally treated to produce an aesthetically pleasing facade. Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(2) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements and aesthetic compatibility with the neighborhood. Any appeals to these administrative decisions shall be taken to the Board of Adjustment.

(H) A maximum of two accessory buildings shall be permitted and combined size shall not exceed the size requirements listed in this section.
(Ord. 14871, passed 4-12-2010)

§ 156.025 HOME OCCUPATIONS.

(A) *Statement of intent.* This section is intended to protect residential districts from potential adverse impacts of certain home occupation activities (described below); to permit residents of the community a broad choice in the use of their homes as a place of livelihood in the production or supplementing of personal/family income; to restrict incompatible uses; to establish criteria and develop standards for the use of residential structures or dwelling units for home occupations; it is not the intent to eliminate certain home-based businesses and occupations which may be compatible with residential areas.

(B) *Criteria.*

(1) *No exterior display.* In connection with which, there is no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, with the exception of division (B)(4) below.

(2) *Residential design features.* The building shall include no features of design not customary for residential use.

(3) *Residential character.* The building or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to exterior appearance or by the emission of dust, gas, noise, odor or smoke, or in any other way.

(4) *Signs.* Any sign utilized by a home occupation in an R district shall be limited to one building mounted sign which shall not exceed one square foot in area.

(5) *Equipment.* Any merchandise or stock in trade sold, repaired or displayed shall be stored entirely within the residential structure or in an accessory building.

(6) *Employment.* On-site employees must be members of the immediate family residing on the premises. Additional employees may be permitted as required by law or may be permitted through the special use permit process by the Board of Adjustment.

(7) *Traffic and parking.* Traffic generated by the home occupation shall not be objectionable to the neighboring residents. Off-street parking shall be adequate to accommodate the parking demand generated by the home occupation.

(8) *Modifications, additions.* Structural modifications or additions to the residence for the expansion of a home occupation are prohibited.

(9) *Non-compliance.* Any home-occupation which does not abide by the terms of this section shall be punishable under § 156.999 of this chapter.

(C) *Registration required.* All home occupations shall fill out a registration form (fee set by resolution) with the Zoning Department in order to assure compliance with the terms of this chapter.

(D) *Permitted home occupations.*

(1) Applicants shall register with the Zoning Department for approval and shall comply with the criteria in division (B) above. The following home occupations are permitted:

(a) Office facilities for accountant, architect, engineer, lawyer, clergyperson or other similar professional occupations, including contractors;

(b) Office facilities for telecommuters, salespersons, sales representatives, manufacturer's representatives and other similar trades or occupations

when traffic generated complies with the traffic and parking criteria as stated in division (B) above;

- (c) Home sewing or tailoring;
- (d) Studio for an artist, photographer, writer or composer;
- (e) Telephone answering;
- (f) Catering, home-cooking and preserving for the purpose of selling the product;
- (g) Tutoring or giving lessons, limited to four students simultaneously; and
- (h) Day care homes.

(2) Upon receiving the registration, the applicant shall be notified of the decision of the Department. The decision may be appealed to the Board of Adjustment within 30 days of the notification if the applicant is aggrieved.

(E) *Prohibited home occupations.* Prohibited home occupations shall not be allowed permission to operate. The following home occupations are considered prohibited:

- (1) Animal hospitals;
- (2) Private clubs;
- (3) Restaurants;
- (4) Stables and kennels;
- (5) Automobile repair or auto body shops. More than two vehicles per year which are not registered at the residence and are rebuilt, repaired or reconstructed shall constitute an automobile repair or auto body shop;
- (6) Automobile paint shops;
- (7) Any occupation which is considered illegal by law; and
- (8) Any use which does not meet the criteria in division (B) above.

(F) *Other home occupations.* Any home occupation which is not considered "permitted" or "prohibited" shall use and abide by the special use process as described in this chapter with the exception of a review by the Plan and Zoning Commission. A special fee for a home occupation special use permit shall be set by resolution. The Board of Adjustment shall review the home occupation in regards to the criteria listed in division (B) above. The Board shall take into account concerns by neighbors and the possible negative impacts to the residential character of the neighborhood. The Board may place any restrictions on the home occupation and the Board shall be critical when evaluating requests for additional employees.

(G) *Existing home occupations.*

(1) Existing home occupations which are in conformance at the time of adoption of this chapter shall remain in conformance, also known as "being grandfathered in".

(2) If an existing business is vacated, any new business must meet current regulations.

(Ord. 14871, passed 4-12-2010)

§ 156.026 SATELLITE TELEVISION DISH ANTENNAS.

The following shall only apply to satellite dishes or antennas greater than three feet in diameter.

(A) *Installation permit required.* Every person intending to install or materially reconstruct an antenna dish for reception of television signals from earth satellites shall apply for and receive a building permit from the city before installing or commencing work on the antenna structure. The antenna shall meet all required setbacks. The fee for the permit shall be set by resolution.

(B) *Satellite television dish antennas.*

(1) Any satellite television dish antenna in any residential zoning district shall have a maximum height of ten feet and a maximum diameter of ten feet, shall be located on the rear one-half of the lot, shall be a neutral color, shall be at least ten feet from any main building existing or under construction on the same lot, shall be at least five feet from any rear or side property line, and in the case of a corner lot, shall not project beyond the front yard required or existing on the adjacent lot.

(2) In the case of an interior lot abutting upon two or more streets, a satellite television dish antenna shall not be erected or altered so as to encroach upon the one-quarter of the lot nearest either street or in any case, the front yard required for either street.

(3) If an antenna dish used for television is to be attached to a structure on a residential lot, it shall not exceed five feet in diameter and shall be attached only to the back of the structure. No more than one-half of such antenna dish shall be visible from the front of the structure.

(4) (a) In any commercial or industrial district, unless commercially licensed, a satellite television dish antenna shall not exceed 45 feet in height, nor be located closer than 15 feet to any public street. If used for advertising purposes, a satellite television dish antenna shall be deemed to be a sign and shall also be governed by the sign regulations applicable to the property.

(b) Where a satellite television dish antenna is proposed to be mounted on the roof of a building in a commercial or industrial district, it shall not exceed more than ten feet above the height limit established for the district in which the structure is located and such antenna shall not be used for any commercial or advertising purposes.

(Ord. 14871, passed 4-12-2010)

§ 156.027 ADULT ENTERTAINMENT BUSINESSES.

(A) *Establishment of business.*

(1) The establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business, the addition of such business activity to that of any other business or a conversion of an existing business location to any of the uses and activities herein described and defined.

(2) It shall also include any addition to or expansion of an existing adult entertainment business which causes said business to occupy over 20% more space than before such addition or expansion.

(B) *Regulation of location and operation.*

(1) No person shall cause or permit the establishment of any adult entertainment business as herein defined within 750 feet of any other such business, any school, place of worship, library, public park, public playground or areas zoned or used for residential use.

(2) Measurement shall be taken on a direct line from the property line of such adult entertainment business to the property line of such other business, school, place of worship, library, public park, public playground or area zoned or used for residential use.

(3) All building openings, entries, windows and the like shall be constructed, located, covered or screened in such a manner as to prevent a view of display areas from, or a view into the interior of the adult entertainment business from, any pedestrian sidewalk, walkway, street or other public or semi public area.

(4) Any adult entertainment business in existence on the effective date of this chapter which does not comply with the minimum separation requirements defined in divisions (B)(1) and (B)(2) above may be continued as a non-conforming use for a period of not more than six years thereafter. Such non-conforming use shall not be expanded, extended or altered with regard to the land area, building or structure involved in such use. The provisions of division (B)(3) above shall apply to all adult entertainment businesses, including said non-conforming uses, upon adoption of this chapter.

(Ord. 14871, passed 4-12-2010) Penalty, see § 156.999

§ 156.028 HALFWAY HOUSES AND EX-OFFENDER REHABILITATION SERVICES.

No person shall cause or permit the establishment of any halfway house or ex-offender rehabilitation, as herein defined, within 750 feet of any other such business, any school, place of worship, library, public park, public playground or areas zoned or used for residential use.

(Ord. 14871, passed 4-12-2010) Penalty, see § 156.999

§ 156.029 ANNEXATION OF TERRITORY.

All territory, which may hereafter be annexed to the city, shall be annexed as a part of the A-1 Agricultural Reserve District unless otherwise agreed upon with the property owners.

(Ord. 14871, passed 4-12-2010)

A-1 AGRICULTURAL RESERVE DISTRICT

§ 156.040 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the A-1 Agricultural Reserve District. The purpose of this district is to preserve land suitable for eventual development until such time as the necessary facilities and services are provided to such areas.

(Ord. 14871, passed 4-12-2010)

§ 156.041 PERMITTED USES.

A building or premises shall be used for the following purposes:

- (A) Farms excluding feedlots;
- (B) Feedlots existing at the time that this chapter was approved; provided that, the intensity of the use does not increase and there are no structural alterations to the feedlot buildings;
- (C) Cemeteries;
- (D) Golf courses, except miniature golf courses and driving ranges operated for commercial purposes;
- (E) Single-family dwellings;
- (F) Churches;
- (G) Private schools having curriculum similar to that offered by public schools;
- (H) Public schools;
- (I) Country clubs;
- (J) Public park, playground and recreational area;
- (K) Home occupations, in compliance with § 156.025 of this chapter;
- (L) Truck gardens, orchards and wooded areas; and
- (M) Accessory uses incidental to and on the same zoning lot as the principal permitted use as follows:
 - (1) A single-family detached home when occupied by the owner or lessee of the principal use;
 - (2) Agricultural buildings and structures;
 - (3) Garages and carports;
 - (4) Private non-commercial greenhouses;
 - (5) Roadside stands for the display and sale of agricultural products on zoning lots where the principal permitted use is agricultural; and
 - (6) Stable, private.

(Ord. 14871, passed 4-12-2010)

§ 156.042 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter: extraction of sand, gravel, topsoil and other natural resources.

(Ord. 14871, passed 4-12-2010)

§ 156.043 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	50 feet minimum, except for lots where the front yard is on a major arterial or major collector street, as defined in the most recent City Comprehensive Plan as amended, then a 75-foot minimum shall be the standard
Lot area	Single-family use: 25 acres minimum
	Other permitted use: 35,000 square feet minimum
Lot width	An average width of 120 feet minimum
Rear yard	50 feet minimum
Side yard	15 feet minimum
	40 feet minimum both side yards combined
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.044 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking space shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

R-1 LOW DENSITY RESIDENTIAL DISTRICT

§ 156.055 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-1 Low Density Residential District.

(Ord. 14871, passed 4-12-2010)

§ 156.056 PERMITTED USES.

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A building or premises shall be used only for the following purposes:

- (A) Single-family detached dwellings;
 - (B) Family/group home;
 - (C) Home occupations, in compliance with § 156.025 of this chapter;
 - (D) Truck gardens, orchards and wooded areas;
 - (E) Churches;
 - (F) Public schools and private schools having a curriculum as ordinarily given in a public school and having no rooms regularly used for housing or sleeping purposes;
 - (G) Parks, playgrounds and community buildings owned or operated by public agencies;
 - (H) Public libraries and museums;
 - (I) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
 - (J) Accessory buildings and accessory uses customarily incident to any of the above uses.
- (Ord. 14871, passed 4-12-2010)

§ 156.057 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
 - (B) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
 - (C) Cemeteries and mausoleums;
 - (D) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose; and
 - (E) Parking lots for government uses under such conditions as will protect the character of the surrounding property.
- (Ord. 14871, passed 4-12-2010)

§ 156.058 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	50 feet minimum. The front yard depth shall be measured from the required right- of-way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended

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	If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of such adjacent lots shall be the established building line
Lot area per dwelling unit	30,000 square feet minimum
Lot width	An average width of 100 feet minimum
Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 35 feet
Side yard	10 feet minimum
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.059 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

R-2 LOW DENSITY RESIDENTIAL DISTRICT

§ 156.070 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-2 Low Density Residential District.

(Ord. 14871, passed 4-12-2010)

§ 156.071 PERMITTED USES.

A building or premises shall be used only for the following purposes:

- (A) Single-family detached dwellings;
- (B) Family/group home;
- (C) Home occupations, in compliance with § 156.025 of this chapter;
- (D) Truck gardens, orchards and wooded areas;
- (E) Churches;

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- (F) Public schools and private schools having a curriculum as ordinarily given in a public school and having no rooms regularly used for housing or sleeping purposes;
 - (G) Parks, playgrounds and community buildings owned or operated by public agencies;
 - (H) Public libraries and museums;
 - (I) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
 - (J) Accessory buildings and accessory uses customarily incident to any of the above uses.
- (Ord. 14871, passed 4-12-2010)

§ 156.072 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Nursing homes;
 - (B) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
 - (C) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
 - (D) Private schools, including pre-school, pre-kindergarten and special schools;
 - (E) Cemeteries and mausoleums;
 - (F) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose; and
 - (G) Parking lots for government uses under such conditions as will protect the character of the surrounding property.
- (Ord. 14871, passed 4-12-2010)

§ 156.073 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	30 feet minimum. The front yard depth shall be measured from the required right-of-way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended
	If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the

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	average front yard depths of such adjacent lots shall be the established building line
Lot area per dwelling unit	Single-family detached: 10,000 square feet minimum
Lot width	An average width of 70 feet minimum
Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 35 feet
Side yard	7 feet minimum
	16 feet minimum both side yards combined
	When a new single-family detached or attached dwelling, or a duplex is constructed the side yard that is contiguous with the outside/exterior wall of an attached garage shall be a minimum of 10 feet
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.074 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

R-2A LOW DENSITY RESIDENTIAL DISTRICT

§ 156.085 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-2A Low Density Residential District.

(Ord. 14871, passed 4-12-2010)

§ 156.086 PERMITTED USES.

A building or premises shall be used only for the following purposes:

- (A) Single-family detached and attached dwellings;
- (B) Two-family dwellings;
- (C) Family/group home;

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- (D) Home occupations, in compliance with § 156.025 of this chapter;
 - (E) Truck gardens, orchards and wooded areas;
 - (F) Churches;
 - (G) Public schools and private schools having a curriculum as ordinarily given in a public school, and having no rooms regularly used for housing or sleeping purposes;
 - (H) Parks, playgrounds and community buildings owned or operated by public agencies;
 - (I) Public libraries and museums;
 - (J) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
 - (K) Accessory buildings and accessory uses customarily incident to any of the above uses.
- (Ord. 14871, passed 4-12-2010)

§ 156.087 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Hospitals and clinics, except animal or criminal;
 - (B) Nursing homes;
 - (C) Funeral homes;
 - (D) Institutions, but not penal;
 - (E) Fraternities and sororities;
 - (F) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
 - (G) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
 - (H) Private schools, including pre-school, pre-kindergarten and special schools;
 - (I) Cemeteries and mausoleums;
 - (J) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose; and
 - (K) (1) Customer and employee parking lots for government or institutional uses under such conditions as will protect the character of the surrounding property.
 - (2) Parking lots shall not store goods, materials or commercial vehicles.
- (Ord. 14871, passed 4-12-2010)

§ 156.088 BULK REQUIREMENTS.

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The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	30 feet minimum. The front yard depth shall be measured from the required right-of- way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of such adjacent lots shall be the established building line
Lot area per dwelling unit	Single-family detached: 8,000 square feet minimum Single-family attached and two-family: 6,000 square feet minimum
Lot width	An average width of 65 feet minimum
Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 35 feet
Side yard	7 feet minimum 16 feet minimum both side yards combined When a new single-family detached or attached dwelling, or a duplex is constructed the side yard that is contiguous with the outside/exterior wall of an attached garage shall be a minimum of 10 feet Single-family attached: 8 feet minimum one side yard only Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.089 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

§ 156.100 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-3 Medium Density Residential District.

(Ord. 14871, passed 4-12-2010)

§ 156.101 PERMITTED USES.

A building or premises shall be used only for the following purposes:

- (A) Single-family detached and attached dwellings;
- (B) Two-family dwellings;
- (C) Multi-family dwellings;
- (D) Family/group home;
- (E) Home occupations in compliance with § 156.025 of this chapter;
- (F) Truck gardens, orchards and wooded areas;
- (G) Churches;
- (H) Public schools and private schools having a curriculum as ordinarily given in a public school, and having no rooms regularly used for housing or sleeping purposes;
- (I) Parks, playgrounds and community buildings owned or operated by public agencies;
- (J) Public libraries and museums;
- (K) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
- (L) Accessory buildings and accessory uses customarily incident to any of the above uses.

(Ord. 14871, passed 4-12-2010)

§ 156.102 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Hospitals and clinics, except animal or criminal;
- (B) Nursing homes;
- (C) Funeral homes;
- (D) Institutions, but not penal;
- (E) Fraternities and sororities;
- (F) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
- (G) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
- (H) Private schools, including pre-school, pre-kindergarten and special schools;
- (I) Cemeteries and mausoleums;

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(J) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose;

(K) Customer and employee parking lots for government or institutional uses under such conditions as will protect the character of the surrounding property. Parking lots shall not store goods, materials or commercial vehicles; and

(L) Bed and breakfast operations. The Board of Adjustment may restrict the number of guest rooms. Only breakfast shall be served and only guests residing in the structure or family members may be served. Off-street parking ratio shall be one space per guest room and a minimum of one space for the owner. Such spaces shall comply with the Front Yard Parking Ordinance. The establishment must comply with all local and state regulations regarding all applicable regulations, permits and licenses.
(Ord. 14871, passed 4-12-2010)

§ 156.103 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	30 feet minimum. The front yard depth shall be measured from the required right-of- way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of such adjacent lots shall be the established building line
Lot area per dwelling unit	5,000 square feet minimum
Lot width	An average width of 50 feet minimum However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met: 1. The lot existed on the effective date of this chapter 2. The minimum average lot width is not less than 35 feet 3. All required setbacks and lot area requirements are maintained 4. No adjacent, vacant lot exists to allow the creation of a conforming lot

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Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 25 feet
Side yard	4 feet minimum each side yard
	15 feet minimum both side yards combined
	When a new single-family detached or attached dwelling, or a duplex is constructed the side yard that is contiguous with the outside/exterior wall of an attached garage shall be a minimum of 10 feet
	Single-family attached: 8 feet minimum one side yard only
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.104 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.105 SMALL LOT EXCEPTION.

(A) A small lot is a lot existing as of 1-1-1997, with an area less than 5,000 square feet and which may be used only for a single-family dwelling or an accessory building or accessory use.

(B) Such a lot shall also satisfy the following requirements.

(1) Any dwelling constructed upon a small lot shall not be less than 700 square feet in size.

(2) The dwelling, accessory buildings, driveways, sidewalk and other paved or graveled areas shall not comprise more than 50% of the square footage of any small lot.

(3) No driveway shall be constructed in front of the dwelling, but must be to the side of the dwelling, except for any dwelling area portions attached to and located above or behind a garage.

(4) The driveway shall be no wider than ten feet for a single car garage and 16 feet for a double car garage.

(5) There shall be no parking in the front yard, nor at any point off the driveway.

(6) All other provisions of this subchapter shall apply to small lots unless inconsistent with this section.

(7) (a) No lot, split or subdivided after 1-1-1997 shall be considered a small lot for purposes of construction under this chapter.

(b) In addition, this small lot exception applies only to lots platted and existing as of 1-1-1997.

(C) The city's Board of Adjustment shall have no jurisdiction to grant an exception or variance as to any small lot in the city.
(Ord. 14871, passed 4-12-2010)

R-4 MEDIUM DENSITY RESIDENTIAL DISTRICT

§ 156.120 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-4 Medium Density Residential District.
(Ord. 14871, passed 4-12-2010)

§ 156.121 PERMITTED USES.

A building or premises shall be used only for the following purposes:

- (A) Single-family detached and attached dwellings;
 - (B) Two-family dwellings;
 - (C) Multi-family dwellings;
 - (D) Family/group home;
 - (E) Home occupations in compliance with § 156.025 of this chapter;
 - (F) Truck gardens, orchards and wooded areas;
 - (G) Churches;
 - (H) Public schools and private schools having a curriculum as ordinarily given in a public school and having no rooms regularly used for housing or sleeping purposes;
 - (I) Parks, playgrounds and community buildings owned or operated by public agencies;
 - (J) Public libraries and museums;
 - (K) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
 - (L) Accessory buildings and accessory uses customarily incident to any of the above uses.
- (Ord. 14871, passed 4-12-2010)

§ 156.122 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Hospitals and clinics, except animal or criminal;

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- (B) Nursing homes;
 - (C) Funeral homes;
 - (D) Institutions, but not penal;
 - (E) Fraternities and sororities;
 - (F) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
 - (G) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
 - (H) Private schools, including pre-school, pre-kindergarten and special schools;
 - (I) Cemeteries and mausoleums;
 - (J) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose;
 - (K) Customer and employee parking lots for government or institutional uses under such conditions as will protect the character of the surrounding property. Parking lots shall not store goods, materials or commercial vehicles;
 - (L) Bed and breakfast operations.
 - (1) The Board of Adjustment may restrict the number of guest rooms.
 - (2) Only breakfast shall be served and only guests residing in the structure or family members may be served.
 - (3) Off-street parking ratio shall be one space per guest room and a minimum of one space for the owner.
 - (4) Such spaces shall comply with the Front Yard Parking Ordinance.
 - (5) The establishment must comply with all local and state regulations regarding all applicable regulations, permits and licenses.
 - (M) Small hospitality operations which serve the purpose of catering to receptions, banquets, dances and other special events.
- (Ord. 14871, passed 4-12-2010)

§ 156.123 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard	30 feet minimum. The front yard depth shall be measured from the required right-of-way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended
	If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of such adjacent lots shall be the established building line

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Lot area per dwelling unit	Single-family dwellings: 5,000 square feet minimum
	Two-family dwellings: 2,500 square feet minimum
	Multi-family dwellings: 2,500 square feet minimum
Lot width	An average width of 50 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met:
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are maintained
	4. No adjacent, vacant lot exists to allow the creation of a conforming lot
Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 25 feet
Side yard	4 feet minimum each side yard
	15 feet minimum both side yards combined
	When a new single-family detached or attached dwelling, or duplex is constructed the side yard that is contiguous with the outside/exterior wall of an attached garage shall be a minimum of 10 feet
	Single-family attached: 8 feet minimum one side yard only
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.124 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.125 SMALL LOT EXCEPTION.

(A) A small lot is a lot existing as of 1-1-1997, with an area less than 5,000 square feet and which may be used only for a single-family dwelling or an accessory building or use.

(B) Such a lot shall also satisfy the following requirements.

(1) Any dwelling constructed upon a small lot shall not be less than 700 square feet in size.

(2) The dwelling, accessory buildings, driveways, sidewalk and other paved or graveled areas shall not comprise more than 50% of the square footage of any small lot.

(3) No driveway shall be constructed in front of the dwelling, but must be to the side of the dwelling, except for any dwelling area portions attached to and located above or behind a garage.

(4) The driveway shall be no wider than ten feet for a single car garage and 16 feet for a double car garage.

(5) There shall be no parking in the front yard, nor at any point off the driveway.

(6) All other provisions of this subchapter shall apply to small lots unless inconsistent with this section.

(7) No lot, split or subdivided after 1-1-1997, shall be considered a small lot for purposes of construction under this chapter. In addition, this small lot exception applies only to lots platted and existing as of 1-1-1997.

(C) The city's Board of Adjustment shall have no jurisdiction to grant an exception or variance as to any small lot in the city.
(Ord. 14871, passed 4-12-2010)

R-5 HIGH DENSITY RESIDENTIAL DISTRICT

§ 156.140 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-5 High Density Residential District.

(Ord. 14871, passed 4-12-2010)

§ 156.141 PERMITTED USES.

A building or premises shall be used only for the following purposes:

- (A) Single-family detached and attached dwellings;
- (B) Two-family dwellings;
- (C) Multiple-family dwellings;
- (D) Family/group home;
- (E) Apartment hotels/motels;
- (F) Boarding houses;
- (G) Home occupations in compliance with § 156.025 of this chapter;
- (H) Truck gardens, orchards and wooded areas;

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- (I) Churches;
 - (J) Public schools and private schools having a curriculum as ordinarily given in a public school and having no rooms regularly used for housing or sleeping purposes;
 - (K) Parks, playgrounds and community buildings owned or operated by public agencies;
 - (L) Public libraries and museums;
 - (M) Golf courses, country clubs, tennis courts and similar recreational uses, all non-commercial; and
 - (N) Accessory buildings and accessory uses customarily incident to any of the above uses.
- (Ord. 14871, passed 4-12-2010)

§ 156.142 SPECIAL USES.

The following uses may be permitted by obtaining a special use permit in accordance with §§ 156.565 through 156.570 of this chapter:

- (A) Office or office building;
- (B) Beauty shops and barber shops;
- (C) Photography studios;
- (D) Art galleries and museums;
- (E) Hospitals and clinics, except animal or criminal;
- (F) Nursing homes;
- (G) Funeral homes;
- (H) Institutions, but not penal;
- (I) Fraternities and sororities;
- (J) Private clubs and lodges, except those whose primary activity is a service customarily carried on as a business;
- (K) Public buildings owned or leased by any department of a municipal, township, county, state or federal government;
- (L) Private schools, including pre-school, pre-kindergarten and special schools;
- (M) Cemeteries and mausoleums;
- (N) Parking lots used for regular customer parking of automobiles and light trucks located not more than 300 feet from the boundary of any business or industrial district, under such conditions as will protect the character of the surrounding property. Lots shall not store materials, goods, vehicles for sale, rent, storage or any other business purpose;
- (O) Customer and employee parking lots for government or institutional uses under such conditions as will protect the character of the surrounding property. Parking lots shall not store goods, materials or commercial vehicles;
- (P) Bed and breakfast operations. The Board of Adjustment may restrict the number of guest rooms. Only breakfast shall be served and only guests residing in the structure or family members may be served. Off-street parking ratio shall be one space per guest room and a minimum of one space for the owner. Such spaces shall comply

with the Front Yard Parking Ordinance. The establishment must comply with all local and state regulations regarding all applicable regulations, permits and licenses; and

(Q) Small hospitality operations which serve the purpose of catering to receptions, banquets, dances and other special events.
(Ord. 14871, passed 4-12-2010)

§ 156.143 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	3 stories or 45 feet maximum
Front yard	20 feet minimum. The front yard depth shall be measured from the required right- of-way lines corresponding to the street classifications in the most recent City Comprehensive Plan, as amended
	If 2 or more lots in any existing block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of such adjacent lots shall be the established building line
Lot area per dwelling unit or unit	Single-family dwellings: 5,000 square feet minimum
	Two-family dwellings: 2,500 square feet minimum
	Multi-family dwellings, apartment hotels/motels and boarding houses: 2,000 square feet minimum
Lot width	An average width of 50 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are maintained
	4. No adjacent, vacant lot exists to allow the creation of a conforming lot
Rear yard	20% depth of the lot minimum, but no rear yard shall be required to be greater than 25 feet
Side yard	4 feet minimum each side yard
	15 feet minimum both side yards combined
	When a new single-family attached or detached dwelling, or a duplex is constructed the side yard that is contiguous with the outside/exterior wall of an attached garage shall be a

	minimum of 10 feet
	Single-family attached: 8 feet minimum 1 side yard only
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.144 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the main building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.145 SMALL LOT EXCEPTION.

(A) A small lot is a lot existing as of 1-1-1997, with an area less than 5,000 square feet and which may be used only for a single-family dwelling or an accessory building or use.

(B) Such a lot shall also satisfy the following requirements.

(1) Any dwelling constructed upon a small lot shall not be less than 700 square feet in size.

(2) The dwelling, accessory buildings, driveways, sidewalk and other paved or graveled areas shall not comprise more than 50% of the square footage of any small lot.

(3) No driveway shall be constructed in front of the dwelling, but must be to the side of the dwelling, except for any dwelling area portions attached to and located above or behind a garage.

(4) The driveway shall be no wider than ten feet for a single car garage and 16 feet for a double car garage.

(5) There shall be no parking in the front yard, nor at any point off the driveway.

(6) All other provisions of this subchapter shall apply to small lots unless inconsistent with this section.

(7) No lot, split or subdivided after 1-1-1997, shall be considered a small lot for purposes of construction under this chapter. In addition, this small lot exception applies only to lots platted and existing as of 1-1-1997.

(C) The city's Board of Adjustment shall have no jurisdiction to grant an exception or variance as to any small lot in the city.

(Ord. 14871, passed 4-12-2010)

R-6 MOBILE HOME RESIDENCE DISTRICT

§ 156.160 PURPOSE.

The provisions set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the R-6 Mobile Home Residence District.

(Ord. 14871, passed 4-12-2010)

§ 156.161 PERMIT REQUIRED.

A permit shall be required for any modifications or additions to any mobile home park or lot thereof after the effective date of this chapter. Approval shall be required by the Zoning Administrator and the Building Official for any structural alterations or additions to any structure located in an R-6 District.

(Ord. 14871, passed 4-12-2010)

§ 156.162 SITE PLAN REVIEW REQUIREMENT.

A site plan shall be submitted, reviewed and approved by the city prior to the issuance of a permit for all development/redevelopment in accordance with §§ 156.480 through 156.486 of this chapter. It shall be the responsibility of the mobile home park owner to notify lessees or tenants that site approval and permits are required by the city.

(Ord. 14871, passed 4-12-2010)

§ 156.163 PERMITTED USES.

A building or premises in an R-6 Mobile Home Residence District shall be used only for one or more of the following purposes:

- (A) Mobile homes;
- (B) Manufactured homes;
- (C) Recreational vehicles (RVs);
- (D) Home occupations, in compliance with § 156.025 of this chapter;
- (E) Parks, playgrounds, recreational uses and community buildings, all non-commercial;
- (F) Accessory buildings and accessory uses customarily incidental to any of the above uses; and
- (G) RVs shall be allowed in the R-6 District temporarily so long as they conform to the requirements set out in § 156.570(D)(2)(d) - (f) of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.164 PARKING REGULATIONS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the principal building in accordance with §§ 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.165 HEIGHT REGULATIONS.

No building shall exceed two and one-half stories, nor shall it exceed 25 feet in height, except as hereinafter provided.
(Ord. 14871, passed 4-12-2010)

§ 156.166 MOBILE HOME PARK REGULATIONS.

The minimum width and depth of a mobile home park shall be 300 feet and the minimum total area of the mobile home park shall be ten acres, including one-half of the width of any bordering street; except that, the minimum area may be one acre where a proposed mobile home park is to be located adjacent to an existing mobile home park; provided, the completed park will contain an area of ten acres or more.
(Ord. 14871, passed 4-12-2010)

§ 156.167 APPROVAL STANDARDS FOR EXPANDED OR NEW MOBILE HOME PARKS.

(A) When an existing mobile home park expands or a new mobile park is proposed, the standards in this section shall be followed. Prior to renting any lots that are covered by this section, the mobile home park owner shall meet the standards set forth in this section. Any existing mobile home park cannot expand without following all procedures contained in this section and this subchapter. A new mobile home park shall not be constructed without following all the procedures set forth in this subchapter.

(B) All standards apply only to expansion and new parks and do not apply to the old part of the park.

(1) *Access from public streets.* Access to all mobile home parks shall be from public streets. The number and location of access drives to such streets shall be controlled for traffic safety and protection of surrounding properties, and approved by the City Engineer.

(2) *Access to individual mobile homes.* Access to individual mobile home spaces in a mobile home park shall be from the interior street system of the mobile home park.

(3) *Interior streets.* Interior streets shall be approved by the City Engineer, shall be paved with a minimum thickness of six inches and shall have the following minimum requirements for pavement widths:

<i>Street Type</i>	<i>Minimum Width (feet per lane)</i>
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<i>Street Type</i>	<i>Minimum Width (feet per lane)</i>
Collector	11
Cul-de-sac	20; the inside cul-de-sac radius shall be 20 feet
Entrance	12
Minor	10
Parking	8
Example: a 2-lane entrance drive with parking on each side would be a minimum of 40 feet wide (8'+12'+12'+8'); a 1-way minor street with parking on one side would be a minimum of 18 feet wide (10'+8')	

(4) *Landscaping.* The mobile home park shall be surrounded by a landscaped strip of open space clear of any structures, except for conforming signage, on all exterior boundary lines. Along all public street frontage, a landscaping area the distance of the frontage with a depth of 30 feet shall be provided. Along all other boundary lines, a landscaping area the distance of the exterior boundary with a depth of 15 feet shall be provided.

(5) *Setbacks.* No part of any mobile home shall be located less than 30 feet from the exterior boundary of the mobile home park. No part of any mobile home shall be located less than 50 feet from a public street right-of-way.

(6) *Common space and shelter.*

(a) A minimum of 8% of the total area of the mobile home park shall be devoted to common space for residents. This common area shall be easily accessible to all residents and may include space for a community building and community use facilities such as pools and indoor recreation areas, parks and playgrounds, open space and other similar uses.

(b) All mobile home parks shall have a structure to provide shelter from tornadoes and other weather-related storms. This structure shall either have a basement or shall itself be underground for storm protection. This structure shall be required to have a minimum occupancy ratio of seven square feet of floor area per each individual lot in the mobile home residence district.

(7) *Signs.* In a mobile home park, one main identification sign shall be permitted with an area not to exceed 25 square feet and six feet in height. Freestanding signs must be set back a minimum of ten feet from any property line.

(8) *Lots.* The mobile home park shall be divided into individual lots with identifiable lot pins to all occupants. These lots shall be approved by the city's Zoning Administrator prior to leasing any lots covered under this chapter. After lots are initially established, the lots may be reconfigured, provided the lot pins are also appropriately relocated. All standards contained in this chapter shall be followed when lot lines are changed. All lot changes occurring after the initial plotting of lots must be reviewed and approved by Zoning Administrator.

(9) *Easements, sewers and the like.*

(a) Public easements, grading and surface drainage, storm water sewer, sanitary sewer, water supply system, sidewalks, public telephone, electric, cable and other wire utilities shall be provided in accordance with the city's Subdivision Ordinance.

(b) Any of the above improvements in a mobile home park shall follow the procedures contained in the city's Subdivision Ordinance. Guarantees of performance and maintenance under the city's Subdivision Ordinance shall not be required unless the services are being dedicated to the city. If any services or improvements are dedicated to the city, the performance and maintenance guarantees shall be required.

(10) *Recreational vehicles.* RVs shall be allowed in the R-6 District so long as they conform to the requirements set out in § 156.570(D)(2)(d) - (f) of this chapter 27.

(Ord. 14871, passed 4-12-2010)

§ 156.168 INDIVIDUAL LOT BULK REQUIREMENTS.

(A) *Replacement homes and new accessory buildings and principal building additions in existing parks.* The following requirements apply to all mobile home parks in existence on the effective date of this subchapter. Sufficient water supply improvements shall be in progress within one year of the effective date of this subchapter, and shall be completed within two years of the effective date of this subchapter. The maximum distance allowable between hydrants shall be 500 feet and adequate pressure shall be provided in conformance with the Uniform Fire Code, and all acts amendatory thereto. Any reconfiguration of lots within an existing mobile home park will require that access roads shall be provided in accordance with the Uniform Fire Code, and all acts amendatory thereto. The following requirements also apply to new accessory buildings and new principal building additions in existing parks.

Accessory buildings	Accessory buildings shall be located in the side and rear yards provided that a 5-foot minimum separation is maintained between the accessory building and any other structure on the lot and a 6-foot separation is maintained between an accessory building on an adjacent lot. Where there is no accessory building on the adjacent lot, the accessory building shall be located 3 feet from any lot line
	Accessory buildings shall not be located in the front yard
	Any accessory building shall not exceed 10 feet in sidewall height
Front yard setback	4 feet minimum setback from lot line
Rear separation	10 feet minimum separation between any principal buildings
Side separation	14 feet minimum separation between any principal buildings
	Corner lots: width of yard on side street line shall not be less than 1/2 the depth of the front yard

(B) *New home locations and new accessory buildings in new mobile home parks and expanded areas.* The following requirements apply to individual mobile homes located in a mobile home park developed after the effective date of this subchapter and in expanded areas of existing mobile home parks which are expanded after the effective date of this subchapter.

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Accessory buildings	Accessory buildings shall be located in the rear half of the lot provided a 5-foot minimum separation is maintained between the accessory building and any other structure on the lot
	Accessory buildings shall be set back a minimum of 3 feet from any lot line
	Accessory buildings shall not be located in the front yard
	Any accessory building shall not exceed 10 feet in sidewall height
Front yard setback	14 feet minimum from lot line
Lot area per dwelling unit	Every lot shall have an area of not less than 5,500 square feet
Lot width	55 feet minimum
Rear setback	10 feet minimum from lot line
Side setback	4 feet minimum each side yard
	15 feet minimum both side yards combined
	Corner lots: width of yard on side street line shall not be less than 1/2 the depth of the front yard

(Ord. 14871, passed 4-12-2010)

§ 156.169 NON-CONFORMING MOBILE HOMES.

The following provisions shall apply to existing mobile home parks within the city on the effective date of this subchapter.

(A) Any non-conforming mobile home, which is hereafter damaged by any means to an extent exceeding 60% or more of its replacement cost at the time of destruction, exclusive of foundations, shall not be restored or reconstructed for its prior use until it is brought into compliance with the provisions of this subchapter within one year of such damage.

(B) Nothing in this subchapter shall prohibit the maintenance and repair of non-conforming mobile homes to keep such mobile homes in sound and safe condition; provided, no enlargement, extension, alteration or change shall be made to increase the degree of non-conformity.

(Ord. 14871, passed 4-12-2010)

ED EDUCATION DISTRICT

§ 156.180 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the ED Education District.

(B) This Education District is reserved exclusively for structures and uses related to or owned by federal, state or community college district authorities.

(C) Although such governmental structures and uses enjoy an exemption from some local zoning requirements it is expected that such authorities will cooperate with the Housing and Community Development Department to encourage the development of standards which will be applicable to and compatible with the general character of the area in which this district is situated.

(Ord. 14871, passed 4-12-2010)

§ 156.181 PERMITTED USES.

The following are permitted uses:

(A) Any residential or institutional building used solely in conjunction with the normal operations of permitted organizations in this district. Such buildings and grounds shall be continuously owned, operated and maintained by the federal, state or community college district which oversees the property; and

(B) Any accessory buildings or temporary uses normally associated with the above-listed uses.

(Ord. 14871, passed 4-12-2010)

§ 156.182 SPECIAL USES.

The following special uses are permitted:

(A) Wind turbines and radio towers/antennas; and

(B) Livestock operations.

(Ord. 14871, passed 4-12-2010)

§ 156.183 BULK REQUIREMENTS.

The following requirements shall be observed:

All yards	100 feet minimum
	Operations involving livestock shall maintain a 150-foot setback
Building height	40 feet maximum
Lot area per dwelling unit	n/a
Lot width	n/a

(Ord. 14871, passed 4-12-2010)

§ 156.184 PARKING REGULATIONS.

Parking lots must be constructed in accordance with § 156.518 of this chapter.
(Ord. 14871, passed 4-12-2010)

TN TRADITIONAL NEIGHBORHOOD DISTRICT

§ 156.195 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the TN Traditional Neighborhood District.

(B) The Traditional Neighborhood District is intended to provide for compact, pedestrian-oriented mixed-use areas of limited size, with a variety of residential, office and service uses that primarily serve neighborhood needs. It is also intended to serve as a transitional use of land between commercial or industrial districts and residential districts or other less intensive land uses.

(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

§ 156.196 PERMITTED USES.

(A) The following are permitted uses:

- (1) Commercial uses contained in § 156.430 of this chapter;
- (2) Single-family detached and attached dwellings;
- (3) Two-family dwellings;
- (4) Multi-family dwellings. These units shall not be on ground/first level of any building also containing a commercial use listed in § 156.430 of this chapter;
- (5) Home occupations in compliance with § 156.025 of this chapter;
- (6) Churches;
- (7) Parks, playgrounds and civic buildings; and
- (8) Accessory buildings and accessory uses customarily incident to any of the above uses.

(B) *Existing uses.* Any existing use, which is conforming as of 1-1-2009, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot, or to a special use. The zoning lot for the businesses after 1-1-2009, may expand provided that the new area is a listed conforming use for that zoning lot or to a listed special use by following the procedures in §§ 156.565 through 156.570 of this chapter.

(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

§ 156.197 GENERAL PROVISIONS.

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(A) Chain link fences shall not be allowed.

(B) A minimum of one tree per lot shall be placed in the terrace pursuant to §§ 58.019 and 58.020 of this code of ordinances.

(C) All regular business must take place inside a structure. This regulation shall not apply to any establishment that employs a full-service wait staff or gas station pumps.

(D) Multiple buildings shall be allowed on one zoning lot, with the exception of single-family detached housing.

(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

§ 156.198 BULK REQUIREMENTS.

The following requirements shall be observed:

Use ^a	Front Yard Setback (min/max)	Rear Yard Setback minimum	Side Yard Setbacks (minimum/combined)	Minimum Lot Area Required/Unit	Maximum Height	Minimum Lot Width
Commercial ^c	0/15 feet	0	None ^d	800 square feet	45 feet	25 feet
Multi-family	0/25 feet	10 feet	None ^d	1,700 square feet	45 feet	25 feet
Single-family attached	10/25 feet	15 feet	6/12 ^b	2,000 square feet	35 feet	25 feet
Single-family detached	15/25 feet	15 feet	6/12	3,500 square feet	35 feet	35 feet
NOTES TO TABLE: ^a Does not include residential units above a commercial space ^b None if shared walls ^c Including residential uses above commercial space. ^d 6-foot minimum per side when adjacent to a residential dwelling						

(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

§ 156.199 PARKING REQUIREMENTS.

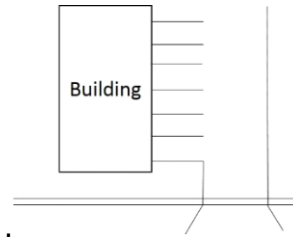
(A) Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(B) Parking lots shall be located in the rear of all commercial uses or on the side. Parking located on the side is allowable in accordance with the following:

(1) The parking must not extend into the required front yard setback.

(2) Landscaping shall be placed between the parking spaces and the front property line in accordance with §§ 156.500 through 156.503 of this chapter.

(3) A single parking aisle with parking on one side which is adjacent to the building and meets the dimension of the city's parking space requirements, is allowable. See sample below



(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

§ 156.200 DESIGN GUIDELINES.

(A) All attached or detached garages shall be placed towards the rear of a building, except on a corner, where the side may also be allowed. These can be accessed via privately controlled lanes and alleyways.

(B) The front facade of any commercial or multi-family building shall be at least 50% brick or masonry stone.

(C) One-story commercial buildings shall be constructed to appear of greater height in relation to the street. This can be achieved through the use of architectural elements, pitched roofs with dormers or gables facing the street, a higher parapet and/or the use of an intermediate cornice line to separate the ground floor and the upper level.

(D) The length of any new non-residential building shall be comprised of at least 50% windows and doors at the ground level.

(Ord. 14871, passed 4-12-2010; Ord. 14981, passed 3-25-2019)

NC NEIGHBORHOOD COMMERCIAL DISTRICT

§ 156.215 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the NC Neighborhood Commercial District.

(B) Neighborhood commercial areas shall be designed to provide for a mix of residential and small commercial uses that provide products and services to surrounding neighborhood residents.

(C) Since this district will often be integrated into residential areas, such developments shall be designed to be compatible with the neighborhood and residential in nature.

(D) The district may provide a buffer from higher intensity uses to residential. (Ord. 14871, passed 4-12-2010)

§ 156.216 PERMITTED AND SPECIAL USES.

A building or premises shall be only used for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below: any existing use, which is conforming as of 8-1-2002, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot, or to a special use. The zoning lot for the business after 8-1-2002 may expand; provided that, the new area is a listed conforming use for that zoning lot, or to a listed special use by following the procedures in § 156.430 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.217 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard setback	1. 30-foot setback along collector streets, as defined in the city's Comprehensive Plan
	2. 40-foot setback along arterial streets, as defined in the city's Comprehensive Plan
	3. 20-foot setback along other streets
	4. If 2 or more lots in any block are occupied by buildings with setbacks less than required and the lots existed on the effective date of this chapter, then the average front yard depths of adjacent lots shall be the established building line
Lot width	An average width of 100 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met:
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are maintained
	4. No adjacent, vacant lot exists to allow the creation of a

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	conforming lot
Minimum lot area	Single-family dwellings: 5,000 square feet per dwelling unit
	Two-family dwellings: 5,000 square feet per dwelling unit
	Multi-family dwellings, apartment hotels/motels and boarding houses: 5,000 square feet per dwelling unit
	Commercial uses: 15,000 square feet
Rear yard setback	None required, except adjacent to a residential district, where there shall be a 15-foot minimum setback
Side yard setback	1. 4-foot minimum each side yard, 15 feet minimum both side yards combined
	2. Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard, except if the side yard abuts an arterial or collector street, in which case the appropriate front yard setback shall be followed

(Ord. 14871, passed 4-12-2010)

§ 156.218 PARKING REQUIREMENTS.

(A) Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(B) Parking areas shall be designed to minimize headlights shining into residential properties.

(Ord. 14871, passed 4-12-2010)

§ 156.219 PERFORMANCE STANDARDS.

(A) Outside storage of non-saleable merchandise or other materials shall not be visible from the public right-of-way.

(B) Adequate area shall be provided on the lot for snow storage.

(C) All uses shall be designed and operated to be compatible with the adjacent residential uses. Specifically, limitations on design and operation of uses shall include architectural and building mass, hours of operation, delivery hours, noise and lighting controls, signage and traffic considerations.

(D) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.220 ARCHITECTURAL STANDARDS.

(A) All sides of commercial buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade that is compatible with residential design or compatible with surrounding buildings. Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(B) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements. Any appeals to these administrative decisions shall be taken to the Board of Adjustment.
(Ord. 14871, passed 4-12-2010)

§ 156.221 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.222 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

CC COMMUNITY COMMERCIAL DISTRICT

§ 156.235 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the CC Community Commercial District.

(B) Community Commercial Districts shall provide a wide range of uses needed for daily functions.

(C) These districts shall be concentrated in areas across the community.
(Ord. 14871, passed 4-12-2010)

§ 156.236 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below.

(A) Any existing use, which is conforming as of 8-1-2002, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot, or to a special use. The zoning lot for the business after 8-1-2002, may expand provided that the new area is a

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listed conforming use for that zoning lot or to a listed special use by following the procedures in § 156.430 of this chapter.

(B) (1) Any existing residential use as of 8-1-2002 shall abide by the requirements set forth in §§ 156.070 through 156.074 of this chapter.

(2) No new dwelling units are permitted.
(Ord. 14871, passed 4-12-2010)

§ 156.237 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	2-1/2 stories or 35 feet maximum
Front yard setback	1. 30 feet along collector streets, as defined in the city's Comprehensive Plan
	2. 40 feet along arterial streets, as defined in the city's Comprehensive Plan
	3. 20 feet along other streets
Lot area	20,000 square feet minimum
Lot width	An average width of 100 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met:
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are maintained
	4. No adjacent, vacant lot exists to allow the creation of a conforming lot
Rear yard setback	None required, except adjacent to a residential district, where there shall be a 15-foot minimum setback
Side yard setback	A side yard is not required, except when adjacent to a residential district, where there shall be an 8-foot minimum setback
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard, except if the side yard abuts an arterial or collector street, in which case the appropriate front yard setback shall be followed

(Ord. 14871, passed 4-12-2010)

§ 156.238 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.239 PERFORMANCE STANDARDS.

(A) Outside storage of non-saleable merchandise or other materials shall not be visible from the public right-of-way.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All uses shall be designed to be compatible with adjacent residential uses.

(E) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.240 ARCHITECTURAL STANDARDS.

(A) (1) All sides of commercial buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade.

(2) Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(B) (1) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements.

(2) Any appeals to these administrative decisions shall be taken to the Board of Adjustment.

(Ord. 14871, passed 4-12-2010)

§ 156.241 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.242 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

CBD CENTRAL BUSINESS DISTRICT

§ 156.255 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the Central Business District.

(Ord. 14871, passed 4-12-2010)

§ 156.256 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below: any existing use, which is conforming as of 11-1-1998 shall be, considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot, or to a listed downtown special use with approval by the Board of Adjustment. The zoning lot for the business after 11-1-1998 may expand; provided that, the new area is a listed conforming use for that zoning lot or to a listed downtown conditional permitted use with the prior approval by the Board of Adjustment. With Board of Adjustment approval, a conforming use as of 11-1-1998 that is not a permitted or a downtown special use in CBD may move to an alternate zoning lot in the Central Business District, unless the use in question becomes vacant for a continuous period of six months.

(Ord. 14871, passed 4-12-2010)

§ 156.257 PERFORMANCE STANDARDS.

(A) Existing uses on the effective date of this chapter shall not be required to modify existing operations to come into compliance with the following performance standards, but shall not increase the amount of outside storage.

(B) The following standards shall apply to newly created uses.

(1) The use shall not be rendered objectionable or detrimental to the vision of the downtown districts due to exterior appearance or by the emission of dust, gas, noise, odor or smoke, or in any other way.

(2) There shall be no outside storage or display of goods and services (including temporary and portable structures), except for temporary goods and services removed on a nightly basis, equipment associated with a child care facility, schools, telecommunications equipment or unless otherwise noted in this chapter. The Board of Adjustment shall have the authority to waive this requirement for temporary or seasonal circumstances.

(3) Parking areas for uses in the CBD District shall be submitted and approved by the city. Parking and parking lots shall not be used for the storage of a vehicle for more than ten days.

(4) Where a structure exists on a lot, the parking spaces shall be adjacent to the structure and shall not be adjacent to the right-of-way lined up perpendicular to the street along the frontage of the lot. The Board of Adjustment may

waive this requirement in cases where it is logical to have parking adjacent and perpendicular to the street frontage. In cases where this requirement is waived, curb stops or other barriers shall be required to deter parking over the sidewalk.
(Ord. 14871, passed 4-12-2010)

§ 156.258 ARCHITECTURAL STANDARDS.

(A) The following minimum standards shall apply to uses within the Central Business District.

(B) These standards shall be part of the site plan review process described in §§ 156.480 through 156.486 of this chapter.

(1) Individual uses shall be tied together by prominent features such as architectural theme, roofing material and style and/or landscape materials.

(2) The architectural design of any building must be acceptable to be approved by the city. The visible sides of buildings, from the street, shall be consistent in design and use of materials. No wood, masonite, visible asphaltic exterior wall or roofing material, metal siding, non-architectural sheet metal, concrete block or other similar materials shall constitute a portion of any building, except as trim material, unless the Zoning Administrator determines that the said material, when used as a primary element, enhances the physical appearance or provides continuity to unite all structures within the property together into one project concept.

(3) Acceptable building materials include brick, stone, veneers, granite, decorative concrete block, stucco or similar materials.

(4) Building setback shall be in harmony and style with other buildings in the area.

(5) Doorways adjacent to a right-of-way shall be set back so that doors do not swing into a right-of-way.

(6) The location and size of signs shall be integrated into the design of the overall development and must meet regulations outlined in the Marshalltown Historic District Sign regulations packet, found § 156.551 of this chapter.

(7) Signage is considered as part of the architectural theme of the building and district and shall be reviewed in the site plan.

(8) All utilities shall be placed underground, where feasible.

(9) All storm water collected from the roofs of the buildings shall be diverted underground, where feasible.

(10) Exterior paint colors on buildings in the Historic District must be from the approved color palette found as an appendix to the ordinance codified herein.
(Ord. 14871, passed 4-12-2010)

§ 156.259 HOUSING.

(A) No new single-family residences are permitted.

(B) Residential uses shall only be on the first floor of mixed-use buildings if the residential units are located to the rear of non-residential uses and not visible from the public right-of-way.

(Ord. 14871, passed 4-12-2010)

§ 156.260 BULK REQUIREMENTS.

The following bulk requirements shall be observed for all uses within this district:

Building height	9 stories, except as herein provided
Front yard setback	None required, except for single-family dwellings
Lot area per family	None required
Open space required	None
Rear yard setback	None required, except for single-family dwellings Existing dwellings: there shall be a rear yard having a depth of not less than 20% of the depth of the lot, but no lot shall be required to have a rear yard depth of more than 25 feet
Side yard setback	None, except for existing single-family dwellings Existing dwellings: for buildings not exceeding 2-1/2 stories in height, there shall be a side yard on each side of the building, having a combined width of not less than 15 feet; provided that, in no case shall either side yard be less than 4 feet in width. Except as hereinafter provided, there shall be a side yard on each side of a 3-story or a 4-story building which shall have a width of not less than 8 feet

(Ord. 14871, passed 4-12-2010)

§ 156.261 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.262 SITE PLAN REQUIREMENT.

See §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.263 LOADING REGULATIONS.

None.
(Ord. 14871, passed 4-12-2010)

OP OFFICE PARK DISTRICT

§ 156.275 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the OP Office Park District.

(B) The Office District shall be designed to provide areas for offices, medical campuses, research and development uses and related personal services.

(C) Elements such as uniform or compatible building design, internal circulation and parking lot design shall be encouraged to create a unified and coordinated office development.

(Ord. 14871, passed 4-12-2010)

§ 156.276 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below.

(A) Any existing use, which is conforming as of 8-1-2002, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot, or to a special use. The zoning lot for the business after 8-1-2002 may expand; provided that, the new area is a listed conforming use for that zoning lot, or to a listed special use by following the procedures in §§ 156.565 through 156.570 of this chapter.

(B) Any existing residential use as of 8-1-2002 shall abide by the requirements set forth in §§ 156.070 through 156.074 of this chapter. No new dwelling units are permitted.

(Ord. 14871, passed 4-12-2010)

§ 156.277 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	6 stories maximum
Front yard	1. 30 feet along collector streets as defined in the city's Comprehensive Plan
	2. 40 feet along arterial streets as defined in the city's Comprehensive Plan

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	3. 20 feet along other streets
Lot area	20,000 square feet minimum
Lot width	An average width of 100 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met:
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are maintained
	4. No adjacent, vacant lot exists to allow the creation of a conforming lot
Rear yard	None required, except adjacent to a residential district, where there shall be a 15-foot minimum setback
Side yard	A side yard is not required, except when adjacent to a residential district, where there shall be an 8-foot minimum setback
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard, except if the side yard abuts an arterial or collector street, in which case the appropriate front yard setback shall be followed

(Ord. 14871, passed 4-12-2010)

§ 156.278 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.279 PERFORMANCE STANDARDS.

(A) Outside storage of non-saleable merchandise or other materials shall not be visible from the public right-of-way except it complies with § 117.021.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All uses shall be designed to be compatible with adjacent residential uses.

(E) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.280 ARCHITECTURAL STANDARDS.

(A) (1) All sides of commercial buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade which is compatible with other buildings in the development.

(2) Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(B) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements. Any appeals to these administrative decisions shall be taken to the Board of Adjustment.

(Ord. 14871, passed 4-12-2010)

§ 156.281 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.282 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.480 through 156.486 and 156.500 through 156.503 of this chapter.
(Ord. 14871, passed 4-12-2010)

PC PLANNED COMMERCIAL DISTRICT

§ 156.295 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the PC Planned Commercial District.

(B) The purpose of the district is as follows:

(1) Promote imaginative, innovative and comprehensively planned commercial developments which are designed to compliment the community;

(2) Planned Commercial Districts shall be designated to provide a district for larger planned commercial centers. These centers may be medium to high-density projects;

(3) The city shall encourage uniform building and signage design, common signage, internal circulation and parking areas and exterior building materials to create a unified and coordinated development. The highest standards of architecture, landscaping and site planning are encouraged;

(4) These areas shall be larger than the Community Commercial Districts; and

(5) Plans shall consider adjacent lots and land uses.
(Ord. 14871, passed 4-12-2010)

§ 156.296 PERMITTED AND SPECIAL USES.

(A) A building or premises shall be used only for the uses contained in § 156.430 of this chapter except for the existing uses special provisions contained below. All uses are subject to site plan review and approval according to the provisions of this chapter. The city shall have full authority to approve, amend or deny any uses for specific zoning lots in the PC area that do not conform to the city's Comprehensive Plan or accepted site planning standards.

(B) (1) All existing uses as of the effective date of this chapter can continue. Any existing use can change to a permitted use under this subchapter.

(2) If an existing use changes to a use that is a special use under this subchapter, the use is subject to approval by the Plan and Zoning Commission.

(3) The existing use zoning lot may expand provided that the new area is a conforming use under this subchapter or to a special use with the prior approval by the Board of Adjustment.

(Ord. 14871, passed 4-12-2010)

§ 156.297 BULK REQUIREMENTS.

(A) Lot dimensional requirements, density limitations and height limits in the PC District shall be established with the site plan review and approval process.

(B) The standards noted below are guidelines and recommendations and may be changed by the city or developer for each site plan.

Front yard	50 feet where no frontage road required 130-150 feet where frontage road is not built, but will be required
Minimum lot area	60,000 square feet
Minimum lot width	200 feet
Minimum open space percentage	25%
Side yard	30 feet
Rear yard	30 feet

(Ord. 14871, passed 4-12-2010)

§ 156.298 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.299 PERFORMANCE STANDARDS.

(A) Existing uses on the effective date of this chapter shall not be required to modify existing operations to come into compliance with the following performance standards, but shall not increase the amount of outside storage. The standards noted in this section shall apply to all newly created uses.

(B) Outside storage of non-saleable merchandise or other materials shall not be visible from the public right-of-way.

(C) Adequate area shall be provided on the lot for snow storage.

(D) Parking areas shall be designed to minimize headlights shining into residential properties.

(E) All uses shall be designed and operated to be compatible with the adjacent residential uses. Specifically, limitations on design and operation of uses shall include architectural and building mass, noise and lighting controls, signage and traffic considerations.

(F) All utilities shall be placed underground, where feasible.

(G) Parking lots shall be designed and constructed to utilize shared parking as described in §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.300 ARCHITECTURAL STANDARDS.

(A) All sides of the commercial buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade. Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(B) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements. Any appeals to these administrative decisions shall be taken to the Site Plan Review Board.

(Ord. 14871, passed 4-12-2010)

§ 156.301 APPROVAL PROCEDURE.

(A) Developments shall follow the site plan review requirement, §§ 156.480 through 156.486 of this chapter.

(B) All land divisions, regardless of the number of lot splits, shall follow all the provisions of the city's Subdivision Ordinance.

(C) Each landowner of record shall submit a site plan for the zoning lot(s) that is proposed to be developed and a general development plan for other adjacent parcels owned by the same landowner of record within 300 feet of the development.

(D) All general development or site plans shall be in conformance with the city's Comprehensive Plan.
(Ord. 14871, passed 4-12-2010)

§ 156.302 GENERAL DEVELOPMENT PLAN STANDARDS.

The general development plan shall generally show the proposed land uses (i.e., large lot commercial, small commercial uses and the like), transportation network and lot layout. The general development plan may change throughout time. Any Plan and Zoning Commission appeals shall be fully handled by the Board of Adjustment.
(Ord. 14871, passed 4-12-2010)

§ 156.303 SCREENING REQUIREMENTS.

(A) *Mechanical units.* For all new uses in the Planned Commercial District all ground mounted mechanical units, including, but not limited to: air-conditioning condensers; heat pumps; ventilation units; computer cooling equipment; and any other related utility structures and equipment that are visible from any adjacent public thoroughfare; shall be visibly screened from public view by the use of a screening wall built of materials compatible and consistent with the architecture and materials of the principal building; landscape plantings of predominantly evergreen type trees and shrubs to provide year-round screening; permanent earth-berming; or a combination of the above.

(B) *Trash dumpsters and receptacles.*

(1) Trash receptacles and dumpsters shall be screened on all sides by the use of a permanent enclosure, with gates for disposal truck access. The enclosure shall be constructed to visibly screen the receptacle from public view and from adjoining properties. The design of the pedestrian access to the receptacle or dumpster shall be designed to minimize the view into the enclosure.

(2) The enclosure should be landscaped to minimize the visual impact of the enclosure on surrounding properties and public thoroughfares.

(C) *Outdoor storage and loading areas.* Any outdoor storage area or loading area that is visible from any public thoroughfare or any residential use shall be visibly screened from public view and adjoining properties with landscape plantings, predominantly evergreen type trees and shrubs to provide year-round screening; permanent earth-berming; or the use of a screening wall built of materials compatible and consistent with the architecture and materials of the principal building.
(Ord. 14871, passed 4-12-2010)

GC GENERAL COMMERCIAL DISTRICT

§ 156.315 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the GC General Commercial District. General Commercial Districts shall be designed to allow a large range of commercial uses that may not be permitted in other more restrictive commercial districts.

(Ord. 14871, passed 4-12-2010)

§ 156.316 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below.

(A) Any existing use, which is conforming as of 8-1-2002, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot or to a special use. The zoning lot for the business after 8-1-2002 may expand; provided that, the new area is a listed conforming use for that zoning lot, or to a listed special use by following the procedures in §§ 156.565 through 156.570 of this chapter.

(B) Any existing residential use as of 8-1-2002 shall abide by the requirements set forth in §§ 156.070 through 156.074 of this chapter. No new dwelling units are permitted.

(Ord. 14871, passed 4-12-2010)

§ 156.317 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	3 stories or 45 feet maximum
Front yard setback	1. 30 feet along collector streets, as defined in the city's Comprehensive Plan
	2. 40 feet along arterial streets, as defined in the city's Comprehensive Plan
	3. 20 feet along other streets
Lot area	20,000 square feet minimum
Lot width	An average width of 100 feet minimum
	However, a building may be erected on a lot which does not conform to this requirement if the following conditions are met:
	1. The lot existed on the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks and lot area requirements are

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	maintained
	4. No adjacent, vacant lot exists to allow the creation of a conforming lot
Rear yard setback	None required, except adjacent to a residential district, where there shall be a 15-foot minimum setback
Side yard setback	A side yard is not required, except when adjacent to a residential district, where there shall be an 8-foot minimum setback
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard, except if the side yard abuts an arterial or collector street, in which case the appropriate front yard setback shall be followed

(Ord. 14871, passed 4-12-2010)

§ 156.318 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.319 PERFORMANCE STANDARDS.

(A) Outside storage of non-saleable merchandise or other materials shall not be visible from the public right-of-way.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.320 ARCHITECTURAL STANDARDS.

None.

(Ord. 14871, passed 4-12-2010)

§ 156.321 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.322 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

RC REGIONAL CENTER DISTRICT

§ 156.335 PURPOSE.

(A) The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the RC Regional Center District.

(B) Regional Center Districts shall be designated to provide a district for larger, planned regional commercial centers.

(C) The city shall encourage the creation of a unified and coordinated development.

(Ord. 14871, passed 4-12-2010)

§ 156.336 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter, except for the existing uses special provisions contained below.

(A) Any existing use, which is conforming as of 8-1-2002, shall be considered a conforming use for that zoning lot for the purposes of this chapter. The use can change to any other listed conforming use for the zoning lot or to a special use. The zoning lot for the business after 8-1-2002 may expand; provided that, the new area is a listed conforming use for that zoning lot, or to a listed special use by following the procedures in §§ 156.565 through 156.570 of this chapter.

(B) Any existing residential use as of 8-1-2002 shall abide by the requirements set forth in §§ 156.070 through 156.074 of this chapter. No new dwelling units are permitted.

(Ord. 14871, passed 4-12-2010)

§ 156.337 BULK REQUIREMENTS.

(A) For the purposes of interpreting and enforcing the bulk requirements of this subchapter, the entire area included within the Regional Center District shall be considered as a single zoning lot.

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(B) The following requirements shall be observed:

Building height	2-1/2 stories or 40 feet maximum
District area	3 acres minimum
Front yard setback	1. 30 feet along collector streets, as defined in the city's Comprehensive Plan
	2. 40 feet along arterial streets, as defined in the city's Comprehensive Plan
	3. 30 feet along other streets
	4. 60 feet if across from a residential district
Lot width	None
Rear yard setback	None required, except adjacent to a residential district, where there shall be a 35-foot minimum setback
Side yard setback	35 feet if adjacent to a residential district
	Corner lots: width of yard on the side street line shall not be less than 1/2 the depth of the front yard except if the side yard abuts an arterial or collector street, in which case the appropriate front yard setback shall be followed

(Ord. 14871, passed 4-12-2010)

§ 156.338 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.339 PERFORMANCE STANDARDS.

(A) Outside storage of merchandise or other materials shall not be visible from the public right-of-way, except with approval by the Plan and Zoning Commission.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All uses shall be designed to be compatible with adjacent residential uses.

(E) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.340 ARCHITECTURAL STANDARDS.

(A) All sides of commercial buildings visible from the public right-of-way shall be architecturally treated to produce an aesthetically pleasing facade. Exterior materials of commercial quality shall include wood, masonite, aluminum, steel, decorative concrete block, stucco, brick or other similar materials with an effective life of 25 years or greater.

(B) (1) The Zoning Administrator shall review and approve architectural design to assure compliance and compatibility with the requirements.

(2) Any appeals to these administrative decisions shall be taken to the Board of Adjustment.

(Ord. 14871, passed 4-12-2010)

§ 156.341 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.342 PARKING LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

M1 LIGHT INDUSTRY

§ 156.355 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the M1 Light Industrial District.

(Ord. 14871, passed 4-12-2010)

§ 156.356 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.357 BULK REQUIREMENTS.

The following requirements shall be observed:

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Building height	75 feet
Front yard setback	1. None
	2. 30 feet if across from residential
	3. 1 additional foot for every foot of height above 50 feet
Lot area	20,000 square feet minimum
Lot width	Average width of 100 feet. However, a building may be erected which does not conform to this requirement if any of the following conditions are met:
	1. The lot existed prior to the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks are met
Rear yard setback	None
	15 feet if adjacent to residential
	1 additional foot for every foot of height above 50 feet
Side yard setback	None
	8 feet if adjacent to residential
	1 additional foot for every foot of height above 50 feet

(Ord. 14871, passed 4-12-2010)

§ 156.358 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.359 PERFORMANCE STANDARDS.

(A) Outside storage of construction or building materials shall not be visible from the public right-of-way, except with approval by the Board of Adjustment.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All uses shall be designed to be compatible with adjacent residential uses.

(E) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.360 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.361 LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.362 DWELLING UNITS.

(A) No permits for new dwellings shall be issued in an M1 Light Industrial District and any changes or modifications in existing dwellings shall comply with all bulk requirements of the R-3 Medium Density Residential District.

(B) Buildings in the M1 District existing as of 1-1-2009, built and designed for residential use, shall be allowed to continue in operation and/or redevelop by obtaining a special use permit.

(Ord. 14871, passed 4-12-2010)

§ 156.363 SMALL LOT EXCEPTION.

(A) A small lot is a lot existing as of 1-1-2010, with an area less than 20,000 square feet and which may be used only for those uses approved in this district.

(B) Such a lot shall also satisfy the following requirements.

(1) Any building constructed upon a small lot shall not be less than 5,000 square feet in size.

(2) The building, accessory buildings, driveways, sidewalk and other paved or graveled areas shall not comprise more than 75% of the square footage of any small lot.

(3) All other provisions of this subchapter shall apply to small lots unless inconsistent with this section.

(4) No lot, split or subdivided after 1-1-2010 shall be considered a small lot for purposes of construction under this subchapter. In addition, this small lot exception applies only to lots platted and existing as of 1-1-2010.

(C) The city's Board of Adjustment shall have no jurisdiction to grant an exception or variance as to any small lot in the city.

(Ord. 14871, passed 4-12-2010)

M2 HEAVY INDUSTRY

§ 156.375 PURPOSE.

The regulations set forth in this subchapter, or set forth elsewhere in this chapter when referred to in this subchapter, are the district regulations for the M2 Heavy Industrial District.

(Ord. 14871, passed 4-12-2010)

§ 156.376 PERMITTED AND SPECIAL USES.

A building or premises shall be used only for the purposes contained in § 156.430 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.377 BULK REQUIREMENTS.

The following requirements shall be observed:

Building height	100 feet
	80 feet when adjacent to any residential zone on at least 2 sides
Front yard setback	None
	30 feet if across from residential
	1 additional foot for every foot of height above 50 feet
Lot area	1 acre
Lot width	Average width of 200 feet. However, a building may be erected which does not conform to this requirement if any of the following conditions are met
	1. The lot existed prior to the effective date of this chapter
	2. The minimum average lot width is not less than 35 feet
	3. All required setbacks are met
Rear yard setback	None
	15 feet if adjacent to residential
	1 additional foot for every foot of height above 50 feet
Side yard setback	None
	15 feet if adjacent to residential
	1 additional foot for every foot of height above 50 feet

(Ord. 14871, passed 4-12-2010)

§ 156.378 PARKING REQUIREMENTS.

Whenever structures are erected or structurally altered, parking spaces shall be provided on the same lot as the building in accordance with §§ 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.379 PERFORMANCE STANDARDS.

(A) Outside storage of construction or building materials shall not be visible from the public right-of-way, except with approval by the Board of Adjustment.

(B) Adequate area shall be provided on the lot for snow storage.

(C) Parking areas shall be designed to minimize headlights shining into residential properties.

(D) All uses shall be designed to be compatible with adjacent residential uses.

(E) All utilities shall be placed underground, where feasible.

(Ord. 14871, passed 4-12-2010)

§ 156.380 SITE PLAN REQUIREMENTS.

See §§ 156.480 through 156.486 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.381 LOT AND BUFFERING REQUIREMENTS.

See §§ 156.500 through 156.503 and 156.515 through 156.522 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.382 DWELLING UNITS.

(A) No permits for new dwellings shall be issued in an M2 Heavy Industrial District and any changes or modifications in existing dwellings shall comply with all bulk requirements of the R-3 Medium Density Residential District.

(B) Buildings in the M2 District existing as of 1-1-2009, built and designed for residential use, shall be allowed to continue in operation and/or redevelop by obtaining a special use permit.

(Ord. 14871, passed 4-12-2010)

§ 156.383 SMALL LOT EXCEPTION.

(A) A small lot is a lot existing as of 1-1-2010, with an area less than one acre and which may be used only for those uses approved in this district.

(B) Such a lot shall also satisfy the following requirements.

(1) Any building constructed upon a small lot shall not be less than 20,000 square feet in size.

(2) The building, accessory buildings, driveways, sidewalk and other paved or graveled areas shall not comprise more than 75% of the square footage of any small lot.

(3) All other provisions of this subchapter shall apply to small lots unless inconsistent with this section.

(4) No lot, split or subdivided after 1-1-2010 shall be considered a small lot for purposes of construction under this subchapter. In addition, this small lot exception applies only to lots platted and existing as of 1-1-2010.
(Ord. 14871, passed 4-12-2010)

FLOOD HAZARD DISTRICTS

§ 156.395 STATUTORY AUTHORIZATION.

The legislature of the state has delegated the responsibility to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

(Ord. 14871, passed 4-12-2010)

§ 156.396 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the health, safety and general welfare of the community.

(B) These losses, hazards and related adverse effects are caused by:

(1) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood; and

(2) The cumulative effect of floodplain construction on flood flows, which causes increases in flood heights and flood water velocities.

(C) (1) This subchapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the state's Department of Natural Resources.

(2) This methodology consists of a series of interrelated steps including:

(a) Determination of flood magnitudes and the corresponding flood frequencies by statistical and engineering calculations which permits a consideration of such flood factors as expected frequency of occurrence, area inundated and depth of inundation;

(b) Calculation of water surface profiles based upon hydraulic engineering analysis of capability of the stream channel and overbank areas to convey flood flows; and

(c) Computation and delineation of a floodway, an area which must be reserved (no obstructions) for conveyance of flood flows so that flood heights and velocities will not be substantially increased by future encroachment on the floodplain.

(Ord. 14871, passed 4-12-2010)

§ 156.397 STATEMENT OF PURPOSE.

It is the purpose of this subchapter to promote the public health, safety and general welfare by minimizing those flood losses described in § 156.396 of this chapter with provisions designed to:

(A) Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially;

(B) 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;

(C) Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction;

(D) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard; and

(E) Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

(Ord. 14871, passed 4-12-2010)

§ 156.398 DEFINITIONS.

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

BASEMENT. Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see **LOWEST FLOOR**.

DEVELOPMENT. Any human-made 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.

FACTORY-BUILT HOME. 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 subchapter, **FACTORY-BUILT HOMES** include mobile homes, manufactured homes and modular homes.

FACTORY-BUILT HOME PARK. A parcel or contiguous parcels of land divided into two or more factory-built home lots for rent or sale.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers from the unusual and rapid runoff of surface waters from any source.

FLOOD ELEVATION. The elevation flood waters would reach at a particular site during the occurrence of a specific flood. For instance, the **100-YEAR FLOOD ELEVATION** is that elevation of flood waters related to the occurrence of the 100-year flood.

FLOOD INSURANCE RATE MAP. 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.

FLOOD INSURANCE STUDY. A study initiated, funded and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards, providing the city with the necessary information for adopting a floodplain management program and establishing actuarial flood insurance rates.

FLOODPLAIN. Any land area susceptible to being inundated by water as a result of a flood.

FLOODPLAIN MANAGEMENT. An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including, but not limited to, emergency preparedness plans, flood control works, flood-proofing and floodplain management regulations.

FLOOD-PROOFING. Any combination of structural or non-structural additions, changes or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

FLOODWAY FRINGE. Those portions of the floodplain, other than the floodway, which can be filled, leveed or otherwise obstructed without causing substantially higher flood levels or flow velocities.

LOWEST FLOOR.

(1) 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 flood events;
- (b) The enclosed area is unfinished (not carpeted, drywalled and the like) and used solely for low damage potential uses such as building access, parking or storage;
- (c) Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and
- (d) The enclosed area is not a "basement", as defined in this section.

(2) In cases where the lowest enclosed area satisfies the criteria in divisions (1)(a), (1)(b), (1)(c) and (1)(d) above, the **LOWEST FLOOR** is the floor of the next highest enclosed area that does not satisfy the criteria above.

NEW CONSTRUCTION (NEW BUILDINGS, NEW FACTORY-BUILT HOME PARKS). Those structures or development for which the start of construction commenced on or after the effective date of this chapter.

ONE HUNDRED (100-) YEAR FLOOD. A flood, the magnitude of which has a 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 100 years.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts and pergolas.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT.

(1) Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed.

(2) Any addition which increases the original floor area of a building by 25% or more. All additions constructed after 4-17-1984, shall be added to any proposed addition in determining whether the total increases in original floor space would exceed 25%.

(3) The term **SUBSTANTIAL IMPROVEMENT** does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration will not preclude the structure’s continued designation as a “historic structure”.

(Ord. 14871, passed 4-12-2010)

§ 156.399 LANDS TO WHICH SUBCHAPTER APPLIES.

This subchapter shall apply to all lands within the jurisdiction of the city shown on the Floodway Boundary and Floodway Map to be within the 100-year flood boundaries. (Ord. 14871, passed 4-12-2010)

§ 156.400 ESTABLISHMENT OF OFFICIAL FLOODPLAIN ZONING MAP.

The Flood Boundary and Floodway Maps prepared as part of the Flood Insurance Study for the City of Marshalltown, Iowa, dated 4-17-1984, are hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material provided with the Flood Insurance Study and the Flood Insurance Rate Maps are also declared to be a part of this subchapter. (Ord. 14871, passed 4-12-2010)

§ 156.401 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

The boundaries of the zoning district shall be determined by scaling distances on the Official Floodplain Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the Zoning Administrator or engineering department shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case and submit technical evidence. (Ord. 14871, passed 4-12-2010)

§ 156.402 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 subchapter and other applicable regulations which apply to uses within the jurisdiction of this subchapter. (Ord. 14871, passed 4-12-2010)

§ 156.403 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this subchapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this subchapter imposes greater restrictions, the provisions of this subchapter shall prevail. All other ordinances inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only. (Ord. 14871, passed 4-12-2010)

§ 156.404 INTERPRETATION.

In their interpretation and application, the provisions of this subchapter shall be held to be minimum requirements and shall be literally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes. (Ord. 14871, passed 4-12-2010)

§ 156.405 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this subchapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by human-made or natural causes, such as ice jams and bridge openings restricted by debris. This subchapter does not imply that areas outside the floodplain districts or land uses permitted within such districts 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 subchapter or any administrative decision lawfully made thereunder.

(Ord. 14871, passed 4-12-2010)

§ 156.406 SEVERABILITY.

If any section, clause, provision or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subchapter shall not be affected thereby.

(Ord. 14871, passed 4-12-2010)

§ 156.407 ESTABLISHMENT OF ZONING DISTRICTS.

The floodplain areas within the jurisdiction of this subchapter are hereby divided into the following districts.

(A) *Floodway Overlay District.* The Floodway Overlay District shall be consistent with the boundaries of the floodway as shown on the Official Floodplain Map.

(B) *Floodway Fringe Overlay District.* The Floodway Fringe Overlay District shall be those areas shown as floodway fringe on the Official Floodplain Zoning Map designated as Zones A2 - A4, A6 and A8.

(C) *General Floodplain Overlay District.* The General Floodplain Overlay District shall be those areas shown on the Official Floodplain Zoning Map as being within the approximate 100-year flood boundary designated as Zone A.

(Ord. 14871, passed 4-12-2010)

§ 156.408 FLOODWAY OVERLAY DISTRICT.

(A) *Permitted uses.* The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance or underlying zoning district and provided they do not require placement of structures, factory built homes, fill or other obstruction, the storage of material equipment, excavation or alteration of a watercourse:

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(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting;

(2) Industrial-commercial uses such as loading areas, parking area, airport landing strips;

(3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails;

(4) Residential uses such as lawns, gardens, parking areas and play areas; and

(5) Such other open-space uses similar in nature to the above uses.

(B) *Special uses.* The following uses which involve structures (temporary or permanent), fill and storage of materials or equipment may be permitted only upon issuance of a special use permit by the Board of Adjustment, to the extent they are not prohibited by any other ordinance or underlying zoning district. Such uses must also meet the applicable provisions of the Floodway Overlay District performance standards:

(1) Uses or structures accessory to open space uses;

(2) Circuses, carnivals and similar transient amusement enterprises;

(3) Drive-in theaters, new and used car lots, roadside stands and billboards;

(4) Extraction of sands, gravel and other materials;

(5) Marinas, boat rentals, docks, piers, wharves;

(6) Utility transmission lines, underground pipelines; and

(7) Other uses similar in nature.

(C) *Performance standards.* All Floodway Overlay District uses allowed as a permitted or conditional use shall meet the following standards.

(1) No use shall be permitted in the Floodway Overlay District that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

(2) All uses within the Floodway Overlay District shall:

(a) Be consistent with the need to minimize flood damage;

(b) Use construction methods and practices that will minimize flood damage; and

(c) Use construction materials and utility equipment that are resistant to flood damage.

(3) No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch or any other drainage facility or system.

(4) Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe Overlay District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

(5) Buildings, if permitted, shall have low flood damage potential and shall not be for human habitation.

(6) Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway Overlay District within the time available after flood warning.

(7) Watercourse alterations or relocations (channel changes and modifications) 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 state's Department of Natural Resources.

(8) Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

(9) Pipeline river or stream crossings shall be buried in the stream-bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

(Ord. 14871, passed 4-12-2010)

§ 156.409 FLOODWAY FRINGE OVERLAY DISTRICTS.

(A) *Permitted uses.* All uses within the Floodway Fringe Overlay District shall be permitted to the extent that they are not prohibited by any other ordinance or underlying zoning district and provided they meet applicable performance standards of the Floodway Fringe Overlay District.

(B) *Performance standards.* All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

(1) *General.* All structures shall:

(a) Be adequately anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Be constructed with materials and utility equipment resistant to flood damage; and

(c) Be constructed by methods and practices that minimize flood damage.

(2) *Residential buildings.* All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one 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 and issuance of a special use permit, 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 buildings shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

(3) *Non-residential buildings.* All new or substantially improved non-residential buildings shall have the first floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When flood-proofing is utilized, a professional engineer registered in the state shall certify that the flood-proofing 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 water-tight 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 flood-proofed shall be maintained by the Zoning Administrator.

(4) *New and improved structures.* 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 flood waters. 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 flood waters.

(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) Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse or lateral movement.

(b) 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 foot above the 100-year flood level.

(6) *Utility and sanitary systems.*

(a) 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 shall be

provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

(b) On-site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(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 shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

(d) Utilities such as gas and 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) *Flammable materials and the like.* 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 foot above the 100-year flood level. Other material and equipment must either be similarly elevated, or:

(a) Not be subject to major flood damage and be anchored to prevent movement due to flood waters; or

(b) Be readily removable from the area within the time available after flood warning.

(8) *Flood control structural works.* Flood control structural works such as levees, flood walls and the like shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the state's Department of Natural Resources.

(9) *Affect.* No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or other drainage facility or system.

(10) *Subdivisions.* 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 shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the 100-year flood.

(11) *Detached structures.* The exemption of detached garages, sheds and similar structures from the 100-year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds and similar accessory type structures are exempt from the 100-year flood elevation requirements when:

(a) The structure shall not be used for human habitation;

(b) The structure shall be designed to have low flood damage potential;

(c) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of flood waters;

(d) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures; and

(e) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one foot above the 100-year flood level.

(12) *Recreational vehicles.* Recreation vehicles placed on sites within this district shall either:

- (a) Be on the site for fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements the section.

(Ord. 14871, passed 4-12-2010)

§ 156.410 GENERAL FLOODPLAIN OVERLAY DISTRICT.

(A) *Permitted uses.* The following uses shall be permitted within the General Floodplain Overlay District to the extent they are not prohibited by any other ordinance or underlying zoning district and provided they do not require placement of structures, factory-built homes, fill or other obstruction, the storage of materials or equipment, excavation or alteration of a watercourse:

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting;

(2) Industrial-commercial uses such as loading areas, parking areas, airport landing strips;

(3) Private and public recreating uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails; and

(4) Residential uses such as lawns, gardens, parking areas and play areas.

(B) *Special uses.* Any use which involves placement of structures, factory-built homes, fill or other obstructions, the storage of materials or equipment, excavation or alteration of a watercourse may be allowed only upon issuance of a special use permit by the Board of Adjustment to the extent they are not prohibited by any other ordinance or underlying zoning district. All such uses shall be reviewed by the state's Department of Natural Resources to determine:

(1) Whether the land involved is either wholly or partly within the floodway or floodway fringe; and

(2) The 100-year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

(C) *Performance standards.*

(1) All conditional uses, or portions thereof, to be located in the floodway as determined by the state's Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Overlay District (§ 156.408 of this chapter).

(2) All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the state's Department of Natural Resources shall meet the applicable standards of the Floodway Fringe Overlay District (§ 156.409 of this chapter).
(Ord. 14871, passed 4-12-2010)

§ 156.411 ZONING ADMINISTRATOR.

(A) A Zoning Administrator designated by the city shall administer and enforce this subchapter.

(B) Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

(1) Review all floodplain development permit applications to ensure that the provisions of this subchapter will be satisfied;

(2) Review all floodplain development permit applications to ensure that all necessary permits have been obtained from federal, state or local governmental agencies;

(3) Verify and maintain a record of:

(a) The elevation (in relation to National Geodetic Vertical Datum) of the lowest floor of all new or substantially improved buildings; or

(b) The elevation to which new or substantially improved structures have been flood- proofed.

(4) Notify adjacent communities and/or counties and the state's Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator;

(5) Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this subchapter;

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration;

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries; and

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this subchapter and advise the City Council of potential conflicts.

(Ord. 14871, passed 4-12-2010)

§ 156.412 FLOODPLAIN DEVELOPMENT PERMIT.

(A) *Permit required.* A floodplain development permit issued by the Zoning Administrator shall be secured prior to any floodplain development (any human-made change to improved or 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-build homes.

(B) *Application for permit.* Application for a floodplain development permit shall be made on forms supplied by the Administrator and shall include the following information:

- (1) Description of the work to be covered by the permit for which application is to be made;
- (2) Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done;
- (3) Indication of the use or occupancy for which the proposed work is intended;
- (4) Elevation of the 100-year flood;
- (5) Elevation (in relation to National Geodetic Datum) of the lowest (including basement) of buildings or of the level to which a building is to be flood-proofed;
- (6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements; and
- (7) Such other information as the Administrator deems reasonably necessary for the purpose of this subchapter.

(C) *Action on permit application.* The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable provisions and standards of this subchapter 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 conditional uses or variances, except as directed by the Board of Adjustment.

(D) *Conditions.* Floodplain development permits issued on the basis of the 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 subchapter and shall be punishable as provided by the City Council. 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, flood-proofing or other flood protection measures were accomplished in compliance with the provisions of this subchapter prior to the use or occupancy of any structure.

(Ord. 14871, passed 4-12-2010)

§ 156.413 SPECIAL USES, APPEALS AND VARIANCES.

(A) *Duties of Board of Adjustment.* The Board of Adjustment shall hear and decide:

- (1) Applications for special uses upon which the Board is authorized to pass under this subchapter; and

(2) Requests for variances to the provisions of this subchapter and shall take any other action which is required of the Board.

(B) *Special uses.* Requests for special uses shall be submitted to the Zoning Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.

(C) *Appeals.* Where it is alleged there is any error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this subchapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(D) *Variances.* The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this subchapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this subchapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

(1) No variance shall be granted for any development within the Floodway Overlay District which would result in any increase in the 100-year level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

(2) Variances shall only be granted upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) 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.

(3) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this subchapter, the applicant shall be notified in writing over the signature of the Zoning Administrator that the issuance of a variance will result in increased premium rates for flood insurance and such construction increases risks to life and property.

(E) *Hearings and decisions of the Board of Adjustment.*

(1) *Hearings.* Upon the filing with the Board of Adjustment of an appeal, an application for a special use or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or

evaluation of a professional engineer or other expert person or agency, including the state's Department of Natural Resources.

(2) *Decisions.* The Board shall arrive at a decision on an appeal, special use or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this subchapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a special use or variance, the Board shall consider such factors as contained in this section and all other relevant sections of this subchapter.

(a) *Factors upon which the decision of the Board shall be based.* In passing upon applications for special uses or requests for variances, the Board shall consider all relevant factors specified in other sections of this subchapter, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept on to other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance of the services provided by the proposed facility to the community;
6. The requirements of the facility for a floodplain location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site; and
12. Such other factors which are relevant to the purpose of this subchapter.

(b) *Conditions attached to special uses or variances.*

1. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of special uses or variances as it deems necessary to further the purpose of this subchapter.
2. Such conditions may include, but not necessarily be limited to:

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supply facilities;

- a. Modification of waste disposal and water
- b. Limitation on periods of use and operation;
- c. Imposition of operational controls, sureties and

deed restrictions; and

- d. Requirements for construction of channel modifications, dikes, levees and other protective measures; provided, such are approved by the state's Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this subchapter.

(c) *Flood-proofing measures.*

1. Flood-proofing measures shall be deigned consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces and other forces associated with the regulatory flood.

2. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

3. Such flood-proofing measures may include, but are not necessarily limited to the following:

- a. Anchorage to resist flotation and lateral movement;
- b. Installation of water-tight doors, bulkheads and shutters, or similar methods of construction;
- c. Reinforcement of walls to resist water pressure;
- d. Use of paints, membranes or mortars to reduce seepage of water through walls;
- e. Addition of mass or weight structures to resist flotation;
- f. Installation of pumps to lower water levels in structures;
- g. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters;
- h. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures;
- i. Construction to resist rupture or collapse cause by water pressure or floating debris;
- j. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures; and
- k. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.

(d) *Appeals to the Court.*

1. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality.

2. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.
(Ord. 14871, passed 4-12-2010)

§ 156.414 NON-CONFORMING USES.

A structure or the use of a structure or parcel of land which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this subchapter may be continued subject to the following conditions.

(A) No such use shall be expanded, changed, enlarged or altered in a way which increases its non- conformity.

(B) No structural alteration, addition or repair to any non-conforming structure over the life of the structure shall exceed 50% of its value at the time of its becoming a non-conforming use, unless the structure is permanently changed to a conforming use.

(C) (1) If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this subchapter.

(2) The Assessor shall notify the Zoning Administrator in writing of instances of non- conforming uses which have been discontinued for six months.

(D) If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50% or more of its value prior to destruction, it shall not be reconstructed, except in conformity with the provisions of this subchapter.

(E) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non- conforming uses.

(Ord. 14871, passed 4-12-2010)

§ 156.415 AMENDMENTS.

(A) The regulations, restrictions and boundaries set forth in this subchapter may from time to time be amended, supplemented, changed or repealed as provided in I.C.A. §§ 414.4, 414.5 and 414.21, as amended.

(B) No amendment, supplement, change or modification to this subchapter shall be undertaken without prior approval from the state's Department of Natural Resources.

(Ord. 14871, passed 4-12-2010)

PERMITTED AND SPECIAL USES FOR COMMERCIAL AND INDUSTRIAL DISTRICTS

Marshalltown, IA Code of Ordinances

§ 156.430 TABLE.

Districts	Other Codes
TN Traditional Neighborhood	P Permitted Use
GC General Commercial	S Special Use
CBD Central Business District	
OP Office Park	
NC Neighborhood Commercial	
RC Regional Commercial	
PC Planned Commercial	
ED Education District	
CC Community Commercial	
M1 Light Industry	
M2 Heavy Industry	

Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
	Residential	See specific chapters for regulations	P	P	P							
22	Utilities	Utilities (i.e., electric power, natural gas, water, sewage)				S	S		S			P
22	Utilities	Acetylene gas manufacturing and storage										P
22	Utilities	Ore reduction										P
23	Construction	Building, developing and general contracting (i.e., land subdivision and development, residential building construction, non-residential building construction)					P				P	P
23	Construction	Plumbing, heating and air-conditioning contractors					P				P	P
23	Construction	Painting and wall covering contractors					P				P	P
23	Construction	Electrical contractors					P				P	P
23	Construction	Masonry, drywall, insulation and tile contractors					P				P	P
23	Construction	Carpentry and floor contractors					P				P	P
23	Construction	Roofing, siding and sheet metal contractors					P				P	P
23	Construction	Concrete contractors					S				P	P
23	Construction	Glass and glazing contractors					P				P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
23	Construction	Building equipment and other machinery installation contractors	23595					P				P	P
23	Construction	All other special trade contractors (i.e., house moving, swimming pool construction, sandblasting, awnings, countertops, signs, bathtub refinishing, mobile home setup, on-site welding)	23599					P				P	P
31-33	Manufacturing	Abattoir and slaughter houses or stockyards	311611										S
31-33	Manufacturing	Acid manufacturing	325132										S
31-33	Manufacturing	Ammonia, bleaching or chlorine manufacturing	325311										P
31-33	Manufacturing	Asphalt manufacturing, refining or preparation	324110										P
31-33	Manufacturing	Blast furnaces	331111										P
31-33	Manufacturing	Boiler works	332410										P
31-33	Manufacturing	Brick, tile, pottery or terra cotta manufacturing (other than handicrafts)	327121										P
31-33	Manufacturing	Cement, lime, gypsum or plaster of paris manufacturing	327310										S
31-33	Manufacturing	Coal tar manufacturing or distribution (except by-products of a public utility)	325192										P
31-33	Manufacturing	Creosote manufacture or treatment	325191										P
31-33	Manufacturing	Distillation of bones, coal or wood	333994										S
31-33	Manufacturing	Explosives manufacturing or storage	325920										S
31-33	Manufacturing	Fat rendering	311613										S
31-33	Manufacturing	Fertilizer manufacturing	325311										S

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
31-33	Manufacturing	Glue manufacturing	325520										S
31-33	Manufacturing	Micro-brewery			P		P	P		P	P	P	P
31-33	Manufacturing	Oilcloth or linoleum manufacturing	326192										P
31-33	Manufacturing	Paint, oil, turpentine or varnish manufacturing	325510										P
31-33	Manufacturing	Petroleum or its products, or the refining of	324110										S
31-33	Manufacturing	Rolling mill	333516										P
31-33	Manufacturing	Smelting of tin or copper	331419										S
31-33	Manufacturing	Tanning, storage or curling of rawhides or skins	316110										P
42	Wholesale Trade	Furniture and home furnishings wholesalers	4212					P				P	P
42	Wholesale Trade	Professional and commercial equipment and supplies wholesalers (i.e., photographic, computer, scales, cooking supplies, store fixtures, medic)	4214					P				P	P
42	Wholesale Trade	Electrical goods wholesalers	4216					P				P	P
42	Wholesale Trade	Hardware, and plumbing and heating equipment and supplies wholesalers	4217					P				P	P
42	Wholesale Trade	Machinery, equipment and supplies wholesalers (i.e., excavating equipment, harvesting equipment, lawnmowers, animal feeders, industrial supplies, service equipment and supplies, transportation equipment and supplies, except motor vehicle)	4218					P				P	P
42	Wholesale Trade	Paper and paper product wholesalers	4221					P				P	P
42	Wholesale	Drugs and	4222					P				P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
	Trade	druggists' sundries wholesalers											
42	Wholesale Trade	Apparel, piece goods and notions wholesalers	4223					P				P	P
42	Wholesale Trade	Grocery and related product wholesalers	4224					P				P	P
42	Wholesale Trade	Beer, wine and distilled alcoholic beverage wholesalers	4228					P				P	P
42	Wholesale Trade	Miscellaneous non-durable goods wholesalers (i.e., farm supplies, book and periodicals, flower, florists, tobacco, paint, pet supplies, yarn)	4229					P				P	P
42	Wholesale Trade	Automobile and other motor vehicle wholesalers	42111					P				P	P
42	Wholesale Trade	Motor vehicle supplies and new parts wholesalers	42112					P				P	P
42	Wholesale Trade	Tire and tube wholesalers	42113					P				P	P
42	Wholesale Trade	Roofing, siding and insulation material wholesalers	42133					P				P	P
42	Wholesale Trade	Other construction material wholesalers (i.e., flat glass, ornamental ironwork, prefabricated buildings, wire fencing)	42139					P				P	P
42	Wholesale Trade	Sporting and recreational goods and supplies wholesalers	42191					P				P	P
42	Wholesale Trade	Toy and hobby goods and supplies wholesalers	42192					P				P	P
42	Wholesale Trade	Jewelry, watch, precious stone and precious metal wholesalers	42194					P				P	P
42	Wholesale Trade	Other miscellaneous durable goods wholesalers (i.e., musical instruments, audio	42199					P				P	P

Marshalltown, IA Code of Ordinances

	Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
		and video, timber and timber products, except lumber)											
42	Wholesale Trade	Building material storage yards	423390										P
49	Warehousing	Fuel storage yards	493190										P
51	Information	Broadcasting and telecommunications	513		P		P	P				P	P
51	Information	Information services and data processing services	514	P	P	P	P		P	S		P	P
51	Information	Software publishers	5112	P	P	P	P	P				P	P
51	Information	Sound recording industries	5122	P	P	P	P	P				P	P
51	Information	Newspaper publishers	51111					P	S			P	P
51	Information	Periodical publishers	51112					P	S			P	P
51	Information	Book publishers	51113					P				P	P
51	Information	Other publishers	51119					P				P	P
51	Information	Motion picture and video production	51211					P			P	P	P
51	Information	Motion picture and video distribution (i.e., distribute to theaters, TV networks, exhibitors)	51212					P				P	P
51	Information	Motion picture and video exhibition (i.e., theaters)	51213	S			P	P		P		P	P
51	Information	Postproduction services and other motion picture and video industries	51219					P				P	P
52	Finance/ Insurance	Monetary authorities - Central Bank	521		P		P		P	S		P	P
52	Finance/ Insurance	Credit intermediation and related activities (commercial banking, credit unions)	522	P	P	P	P		P	S	P	P	P
52	Finance/ Insurance	Securities, commodity contracts and other financial investments and related activities	523	P	P	P	P		P	S	P	P	P
52	Finance/ Insurance	Insurance carriers and related activities	524	P	P	P	P		P	S	P	P	P
52	Finance/	Funds, trusts and	525	P	P	P	P		P	S		P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
	Insurance	other financial vehicles											
53	Real Estate	Lessors of non-financial intangible assets (except copyrighted works) (i.e., trademarks, patents)	533	P	P	P	P		P	S		P	P
53	Real Estate	Offices of real estate agents and brokers	5312	P	P	P	P		P	S		P	P
53	Real Estate	Activities related to real estate (i.e., managing, appraising)	5313	P	P	P	P		P	S		P	P
53	Real Estate	General rental centers (commercial retail equipment rental)	5323					P				P	P
53	Real Estate	Commercial and industrial machinery and equipment rental and leasing (business rental)	5324					P			P	P	P
53	Real Estate	Lessors of residential buildings and dwellings	53111	P	P	P	P		P	S		P	P
53	Real Estate	Lessors of non-residential buildings (except mini- warehouses)	53112	P	P	P	P		P	P		P	P
53	Real Estate	Lessors of mini-warehouses and self-storage units	53113	P		P	P	P				P	P
53	Real Estate	Passenger car rental and leasing	53211				P	P		S	P	P	P
53	Real Estate	Personal storage rental spaces, which are accessed from the interior of a building	53113								P		
53	Real Estate	Truck, utility trailer and RV (recreational vehicle) rental and leasing	53212				P	P		S	P	P	P
53	Real Estate	Consumer electronics and appliances rental	53221	P	P	P	P	P		P	P	P	P
53	Real Estate	Formal wear and costume rental	53222	P	P	P	P	P		P	P	P	P
53	Real Estate	Video tape and disc rental (i.e., video stores)	53223	P	P	P	P	P		P	P	P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
53	Real Estate	Office machinery and equipment rental and leasing	53242	P	P	P	P	P		S	P	P	P
53	Real Estate	Home health equipment rental (i.e., wheelchairs, oxygen)	532291	P	P	P	P	P	P	S	P	P	P
53	Real Estate	Recreational goods rental (i.e., bicycles, strollers, canoes)	532292		P		P	P		P	P	P	P
53	Real Estate	All other consumer goods rental (i.e., furniture, party supplies)	532299		P		P	P		P	P	P	P
54	Professional Svcs	Legal services	5411	P	P	P	P		P	S	P	P	P
54	Professional Svcs	Accounting, tax preparation, bookkeeping and payroll services	5412	P	P	P	P		P	S	P	P	P
54	Professional Svcs	Architectural, engineering, and related services	5413	P	P	P	P		P	S		P	P
54	Professional Svcs	Specialized design services	5414	P	P	P	P		P	S		P	P
54	Professional Svcs	Computer systems design and related services	5415	P	P	P	P		P	S		P	P
54	Professional Svcs	Management, scientific and technical consulting services	5416	P	P	P	P		P	S		P	P
54	Professional Svcs	Scientific research and development services	5417	P	P	P	P		P	S		P	P
54	Professional Svcs	Advertising and related services	54181	P	P	P	P		P	S		P	P
54	Professional Svcs	Public relations agencies	54182	P	P	P	P		P	S		P	P
54	Professional Svcs	Media buying agencies	54183	P	P	P			P	S		P	P
54	Professional Svcs	Media representatives (i.e., newspaper, TV, radio sales agents)	54184		P			P	P	S		P	P
54	Professional Svcs	Display advertising (i.e., signs)	54185		P			P				P	P
54	Professional Svcs	Direct mail advertising (i.e., handbills, coupons)	54186		P			P			P	P	P
54	Professional Svcs	Advertising material distribution services	54187		S			P				P	P
54	Professional Svcs	Other services related to advertising (i.e.,	54189		P			P				P	P

Marshalltown, IA Code of Ordinances

	Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
		advertising specialties, display lettering)											
54	Professional Svcs	Marketing research and public opinion polling	54191	P	P	P			P	S	P	P	P
54	Professional Svcs	Photographic services (i.e., still, video or digital photography)	54192	P	P	P	P	P		P		P	P
54	Professional Svcs	Translation and interpretation services	54193	P	P	P			P	S		P	P
54	Professional Svcs	Veterinary services	54194	S	S	S	P	P				P	P
54	Professional Svcs	All other professional, scientific and technical services (i.e., appraisal, consumer counseling, arbitration)	54199	P	P	P	P	P	P	S		P	P
56	Admin & Other	Junk yards	562212										S
56	Admin & Other	Office administrative services	5611	P	P	P	P		P	S		P	P
56	Admin & Other	Facilities support services (janitorial, security, maintenance)	5612	P	P	P	P		P	S		P	P
56	Admin & Other	Employment services (placement agencies, temp services)	5613	P	P	P	P		P	S		P	P
56	Admin & Other	Travel arrangement and reservation services	5615	P	P	P	P		P	P	P	P	P
56	Admin & Other	Investigation and security services	5616	P	P	P	P		P	S		P	P
56	Admin & Other	Services to buildings and dwellings (i.e., pest control, janitorial, landscaping, carpet and upholstery cleaning)	5617		P		P	P	P	S		P	P
56	Admin & Other	Other support services (i.e., day to day business support)	5619	P	P	P	P		P	S		P	P
56	Admin & Other	Document preparation services	56141	P	P	P	P		P	S		P	P
56	Admin & Other	Telephone call	56142		P		P		P	S	P	P	P

Marshalltown, IA Code of Ordinances

	Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
		centers											
56	Admin & Other	Collection agencies	56144		P	P	P		P	S		P	P
56	Admin & Other	Credit bureaus	56145	P	P	P	P		P	S		P	P
56	Admin & Other	Other business support services (i.e., court reporting, repossession services)	56149	P	P	P	P		P	S		P	P
56	Admin & Other	Private mail centers (mailbox rental and other mailing/office services)	561431		P	P	P	P	P	P	P	P	P
56	Admin & Other	Other business service centers (including copy shops)	561439	P	P	P	P		P	S		P	P
61	Education Svcs	Junior colleges	6112		P		P		P	S		P	P
61	Education Svcs	Colleges, universities and professional schools	6113		P		P		P	S		P	P
61	Education Svcs	Business schools and computer and management training	6114		P		P		P	S		P	P
61	Education Svcs	Technical and trade schools (i.e., cosmetology, real estate, truck driving, electronic)	6115		S		P		P	S		P	P
61	Education Svcs	Other schools and instruction (i.e., dance, music, photography, sports, language, exam preparation, automobile driving)	6116	P	P	P	P		P	S		P	P
61	Education Svcs	Educational support services (consultants, testing, guidance)	6117	P	P	P	P		P	S		P	P
62	Health & Social	Ambulatory health care services (various health practitioners)	621	P	P	P	P		P	S	P	P	P
62	Health & Social	Hospitals	622		S		S		P	S		P	P
62	Health & Social	Nursing and residential care facilities	623	S	S	S	S		S			P	P
62	Health & Social	Halfway houses for ex-offenders	6239									S	S
62	Health & Social	Individual and family services	6241	P	P	P	P		P	S		P	P
62	Health & Social	Community food and housing and	6242		P	P	P		S			P	P

Marshalltown, IA Code of Ordinances

	Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
		emergency and other relief											
62	Health & Social	Vocational rehabilitation services	6243	P	P	P	P		P	S		P	P
62	Health & Social	Child day care services	6244	P	P	P	P		P	S		P	P
71	Entertain/Rec	Museums, historical sites and similar institutions	712	P	P	P	P	P				P	P
71	Entertain/Rec	Performing arts companies	7111	P	P	P	P					P	P
71	Entertain/Rec	Promoters of performing arts, sports and similar events	7113	P	P	P	P		P	S		P	P
71	Entertain/Rec	Agents and managers for artists, athletes, entertainers and other public figures	7114	P	P	P	P		P	S		P	P
71	Entertain/Rec	Independent artists, writers and performers	7115	P	P	P	P			S		P	P
71	Entertain/Rec	Amusement arcades	71312	P	P	P	P			P	P	P	P
71	Entertain/Rec	Fitness and recreational sports centers	71394	S	P	S	P	P			P	P	P
71	Entertain/Rec	Bowling centers	71395	S	P	S	P	P		P	P	P	P
71	Entertain/Rec	All other amusement and recreation industries (i.e., archery, billiard, boat clubs, dance halls, miniature golf, amusement ride)	71399	S	S	S	P	P			P	P	P
72	Accommodation	Traveler accommodation	7211	S	P	S	P	P	S	P	P	P	P
72	Accommodation	Full-service restaurants	7221	P	P	P	P	P	S	P	P	P	P
72	Accommodation	Limited-service eating places	7222	S	P	P	P	P	S	P	P	P	P
72	Accommodation	Drinking places (alcoholic beverages)	7224	S	P	S	P	P		P	S	P	P
72	Accommodation	Food service contractors (i.e., cafeteria contractors at hospitals, offices)	72231		S			P				P	P
72	Accommodation	Caterers	72232	S		P	P	P		P		P	P
72	Accommodation	Mobile food services	72233	S		S		P				P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
81	Other Services	Electronic and precision equipment repair and maintenance (i.e., computers)	8112	P	P	P	P	P		P	S	P	P
81	Other Services	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance	8113					P				P	P
81	Other Services	Personal care services (i.e., beauty and barber shops)	8121	P	P	P	P			P	P	P	P
81	Other Services	Death care services	8122	P	P	P	P	P				P	P
81	Other Services	Drycleaning and laundry services	8123	P	P	P	P	P		S	P	P	P
81	Other Services	Religious organizations (churches and the like)	8131	P	P	P	P	P	P	S		P	P
81	Other Services	Grant-making and giving services	8132	P	P	P	P		P	S		P	P
81	Other Services	Social advocacy organizations	8133	P	P	P	P		P	S		P	P
81	Other Services	Civic and social organizations	8134	P	P	P	P		P	S		P	P
81	Other Services	Business, professional, labor, political and similar organizations	8139	P	P	P	P	S	S	S		P	P
81	Other Services	Home and garden equipment and appliance repair and maintenance	81141				S	P				P	P
81	Other Services	Reupholstery and furniture repair	81142	P	P	P	P	P				P	P
81	Other Services	Footwear and leather goods repair	81143	P	P	P	P	P		P	P	P	P
81	Other Services	Other personal and household goods repair and maintenance (i.e., garments, watches, jewelry, bicycles, recreational boats)	81149	P	P	P	P	P		P	P	P	P
81	Other Services	Pet care (except veterinary) services (boarding, grooming, training)	81291	P	S	P	P	P			P	P	P
81	Other Services	Photo-finishing	81292	P	P	P	P	P		P		P	P
81	Other Services	Parking lots and garages	81293	S	P	P	P	P	P	P	P	P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
81	Other Services	All other personal services (i.e., bail bonds, shoeshine, wedding planning, dating services)	81299	P	P	P	P		P	S	P	P	P
81	Other Services	Automotive mechanical and electrical repair and maintenance	811111		S		P	P		S		P	P
81	Other Services	Automotive exhaust system repair	811112		S		P	P		S		P	P
81	Other Services	Automotive transmission repair	811113		S		P	P				P	P
81	Other Services	Other automotive mechanical and electrical repair and maintenance	811118		S		P	P		S		P	P
81	Other Services	Automotive body, paint, and interior repair and maintenance	811121		S		P	P				P	P
81	Other Services	Automotive glass replacement shops	811122		S		P	P				P	P
81	Other Services	Automotive oil change and lubrication shops	811191		S		P	P		S		P	P
81	Other Services	Car washes	811192		S		P	P		S	S	P	P
81	Other Services	All other automotive repair and maintenance (i.e., tires, air conditioning, rust proofing)	811198		S		P	P		S		P	P
92	Public Admin	Executive, legislative and other general government support	921		P				P	S		P	P
92	Public Admin	Administration of human resource programs	923	P	P	P	P		P	S		P	P
92	Public Admin	Administration of environmental quality programs	924	P	P	P	P		P	S		P	P
92	Public Admin	Administration of housing programs, urban planning, and community development	925	P	P	P	P		P	S		P	P
92	Public Admin	Administration of economic programs	926	P	P	P	P		P	S		P	P
92	Public Admin	Space research and technology	927		P		P		P	S		P	P
92	Public Admin	National security and international affairs	928		P		P		P	S		P	P

Marshalltown, IA Code of Ordinances

Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
92	Public Admin	Courts	92211		P				P			P	P
92	Public Admin	Police protection	92212	P	P	P	P	P		S		P	P
92	Public Admin	Legal counsel and prosecution	92213	P	P	P	P	P	P	S		P	P
92	Public Admin	Parole offices and probation offices	92215	P	P	P	P		P	S	P	P	P
92	Public Admin	Fire protection	92216	P	P	P	P	P	P	P		P	P
92	Public Admin	Other justice, public order, and safety activities (i.e., emergency planning)	92219	P	P	P	P		P	S	P	P	P
44-45	Retail Trade	Furniture and home furnishings stores	442	P	P		P	P		P	P	P	P
44-45	Retail Trade	Clothing and clothing accessories stores	448	P	P	P	P			P	P	P	P
44-45	Retail Trade	Sporting goods, hobby, book and music stores	451	P	P	S	P	P		P	P	P	P
44-45	Retail Trade	Other motor vehicle dealers (RVs, motorcycles, boats, recreational vehicles and the like)	4412		P		P	P		S	P	P	P
44-45	Retail Trade	Beer, wine and liquor stores	4453		P		P	P	S	P	P	P	P
44-45	Retail Trade	Department stores	4521		P		P	P		P	P	P	P
44-45	Retail Trade	Florists	4531	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	Used merchandise stores	4533	P	P	P	P	P				P	P
44-45	Retail Trade	Electronic shopping and mail-order houses	4541		P		P	P				P	P
44-45	Retail Trade	Vending machine operators	4542					P				P	P
44-45	Retail Trade	New car dealers - used car sales allowed on same zoning lot	44111				P	P		P	P	P	P
44-45	Retail Trade	Used car dealers	44112				P	P				P	P
44-45	Retail Trade	Automotive parts and accessories stores	44131		P		P	P		P	P	P	P
44-45	Retail Trade	Tire dealers	44132		S		P	P		S	P	P	P
44-45	Retail Trade	Appliance, television and other electronics stores	44311	P	P		P	P		P	P	P	P
44-45	Retail Trade	Computer and software stores	44312	P	P	P	P			P	P	P	P
44-45	Retail Trade	Camera and photographic supplies stores	44313	P	P	P	P	P		P	P	P	P

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Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
44-45	Retail Trade	Home centers (home improvement centers)	44411		P		P	P		P	P	P	P
44-45	Retail Trade	Paint and wallpaper stores	44412		P	P	P	P		P	P	P	P
44-45	Retail Trade	Hardware stores	44413	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	Other building material dealers (i.e., cabinet stores, floor coverings, lumber-retail, pre-fabricated buildings, glass)	44419		P		P	P		P	P	P	P
44-45	Retail Trade	Outdoor power equipment stores	44421		P		P	P			P	P	P
44-45	Retail Trade	Nursery and garden centers	44422	S	S	P	P	P		P	P	P	P
44-45	Retail Trade	Supermarkets and other grocery (except convenience) stores	44511	P	P		P			P	P	P	P
44-45	Retail Trade	Convenience stores	44512	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	Meat markets	44521	P	P	P	P	P				P	P
44-45	Retail Trade	Fish and seafood markets	44522	P	P	P	P	P				P	P
44-45	Retail Trade	Fruit and vegetable markets	44523	P	P	P	P	P				P	P
44-45	Retail Trade	Other specialty food stores	44529	S	P	S	P	P				P	P
44-45	Retail Trade	Pharmacies and drug stores	44611	P	P	P	P		S	P	P	P	P
44-45	Retail Trade	Cosmetics, beauty supplies and perfume stores	44612	P	P	P	P			P	P	P	P
44-45	Retail Trade	Optical goods stores	44613	P	P	P	P		S	P	P	P	P
44-45	Retail Trade	Other health and personal care stores (i.e., hearing aid, food supplements, convalescent supplies)	44619	P	P	P	P		S	P	P	P	P
44-45	Retail Trade	Gasoline stations with convenience stores	44711	P	P	P	P	P	S	P	P	P	P
44-45	Retail Trade	Other gasoline stores	44719	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	Warehouse clubs and superstores	45291				P	P		P	P	P	P
44-45	Retail Trade	All other general merchandise stores (i.e., dollar stores,	45299	P	P	P	P	P		P	P	P	P

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Sector		Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
		variety stores, home and auto supply stores)											
44-45	Retail Trade	Office supplies, stationery and gift stores	45321	P	P	P	P		S	P	P	P	P
44-45	Retail Trade	Gift, novelty and souvenir stores	45322	P	P	P	P			P	P	P	P
44-45	Retail Trade	Pet and pet supplies stores	45391	P	P	S	P	P		P	P	P	P
44-45	Retail Trade	Art dealers	45392	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	Manufactured (mobile) home dealers	45393				S	P			P	P	P
44-45	Retail Trade	Fuel dealers (i.e., thermogas)	45431					P				P	P
44-45	Retail Trade	Other direct selling establishments (i.e., bottled water, frozen food, locker meat, party plan, coffee break supplies)	45439		S	S	P	P		S		P	P
44-45	Retail Trade	Tobacco stores	453991	P	P	P	P	P		P	P	P	P
44-45	Retail Trade	All other miscellaneous store retailers (except tobacco stores) (i.e., art supply, cemetery, flower shops, auction houses, hot tub/swimming pools, trophy shops)	453998	P	P	P	P	P		P	P	P	P
48-49	Trans/ Warehouse	Truck transportation	484					P				P	P
48-49	Trans/ Warehouse	Transit and ground transportation passenger transportation (including vanpools)	485					P				P	P
48-49	Trans/ Warehouse	Scenic and sightseeing transportation	487					P				P	P
48-49	Trans/ Warehouse	Postal service	491	S	S	S	P	P		P	P	P	P
48-49	Trans/ Warehouse	Couriers and messengers	492	P	P	P	P	P				P	P
48-49	Trans/ Warehouse	Support activities for road transportation (i.e., towing)	4884					P				P	P
48-49	Trans/ Warehouse	General warehousing and	49311					P				P	P

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Sector	Use	Code	TN	CBD	NC	CC	GC	OP	PC	RC	M1	M2
	storage											
NOTES TO TABLE: *All uses not listed are permitted in the M1 and M2 Districts with a special use permit.												

(Ord. 14871, passed 4-12-2010; Ord. 14980, passed 4-8-2019)

NON-CONFORMING USES

§ 156.445 NON-CONFORMING USES OF LAND.

The non-conforming use of land (where no principal building is involved) existing on the effective date of this chapter may be continued for a period of not more than five years thereafter; provided that, no such non-conforming use of land shall in any way be expanded or extended either in the same or adjoining property. If such non-conforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with the provisions of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.446 NON-CONFORMING BUILDINGS.

(A) *General.* The lawful use of a building existing at the effective date of this chapter may be continued although such use does not conform to the provisions thereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not be changed thereafter to a less restricted use. The non-conforming use of a building may be extended throughout those parts of a building which were manifestly arranged or designed for such use on the effective date of this chapter.

(B) *Non-conforming use created by changes in ordinance.* Whenever the use of a building becomes a non-conforming use through a change in this chapter or district boundaries, such use may be continued as provided in division (A) above.

(C) *Discontinuance of non-conforming building and uses.* Any building or portion thereof used in whole or in part for non-conforming uses, which hereafter becomes and remains vacant for a continuous period of six months shall not again be used, except in conformity with the regulations of the district in which such building or land is situated.

(D) *Damaged non-conforming buildings.*

(1) Any building or portion thereof used in whole or in part for non-conforming uses which has been damaged by fire, explosions, act of God or a public enemy to the extent of more than 50% of the fair market value of the building

immediately prior to damage, shall not be restored, except in conformity with the regulations in this chapter.

(2) If a building is damaged by less than 50% of the fair market value, it may be repaired or reconstructed and used as before the time of damage; provided that, a permit for such repairs or reconstruction is issued within 12 months of the date of such damage.

(Ord. 14871, passed 4-12-2010)

CERTIFICATES OF OCCUPANCY

§ 156.460 GENERAL.

A certificate of occupancy shall state that the building or land, proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of this chapter.

(A) Vacant land (where no principal building is involved) shall not be occupied or used and any building hereafter erected or structurally altered shall not be occupied or used until a certificate of occupancy shall have been issued.

(B) A permit for excavation for any building shall not be issued before application has been made for a certificate of occupancy.

(C) The certificate of occupancy shall be issued by the Building Department.

(D) A record of all certificates of occupancy shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any person having a propriety or tenancy interest in the building or land affected.

(Ord. 14871, passed 4-12-2010)

§ 156.461 VACANT LAND.

A certificate of occupancy for the use of vacant land or the change in the use of vacant land as herein provided shall be applied for before any such land shall be occupied or used, and said certificate of occupancy shall be issued within ten days after the application has been made; provided, such use is in conformity with the provisions of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.462 BUILDING.

A certificate of occupancy for a new building or a structurally altered existing building shall be applied for coincident with the application for the building permit and said certificate shall be issued within three days after the request for such issuance

shall have been made following the completion of erection or structural alteration of such building in conformity with the provisions of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.463 TEMPORARY CERTIFICATE OF OCCUPANCY FOR BUILDINGS.

Pending the issuance, a regular certificate of occupancy may be issued for a period not exceeding six months for partial occupancy of a building during its construction or during the completion of the structural alteration. Such temporary certificate of occupancy shall not be construed as in any way altering the respective rights, duties or obligation of the owner or of the city relating to the use or the occupancy of the premises or any other provisions of this chapter. Such temporary certificate shall not be issued, except under such restrictions and provisions as shall adequately ensure the safety of the occupants.
(Ord. 14871, passed 4-12-2010)

§ 156.464 NON-CONFORMING USE.

A certificate of occupancy for a non-conforming use existing on the effective date of this chapter shall be issued and shall state that the use is a non-conforming use and does not conform to the provisions of this chapter. The Building Commissioner shall notify all occupants of property being used as non-conforming uses and said occupants shall, within 30 days after receipt of such notice, apply for a certificate of occupancy.
(Ord. 14871, passed 4-12-2010)

§ 156.465 FEE.

No fee shall be charged for any original certificate applied for coincident with the application for a building permit; for all other certificates or for copies of any original certificate, there shall be reasonable fee.
(Ord. 14871, passed 4-12-2010)

SITE PLAN REVIEW

§ 156.480 PURPOSE.

It is the intent and purpose of this subchapter to:

- (A) Establish specific procedures which enable the city government to plan for and review proposed development/redevelopment of property;
- (B) Ensure the orderly and harmonious development of property;

- (C) Promote the beneficial relationship between uses of land;
 - (D) Provide for orderly and efficient circulation of traffic within the development and throughout the city;
 - (E) Ensure that the proposed development/redevelopment is within the capacity limitations of public facilities and services;
 - (F) Ensure adequate provision for surface and subsurface drainage; and
 - (G) Provide for suitable screening of parking, truck loading, refuse disposal and outdoor storage from adjacent properties.
- (Ord. 14871, passed 4-12-2010)

§ 156.481 WHEN SITE PLANS REQUIRED.

Site plans shall be submitted, reviewed and approved by the city prior to the issuance of a permit for all development/redevelopment of any lot, tract or parcel of land in all zoning districts.

(Ord. 14871, passed 4-12-2010)

§ 156.482 DESIGN STANDARDS FOR ALL SITE PLANS.

(A) When acting upon an application for site plan approval, the city shall rely upon generally accepted site planning criteria and design standards.

(B) The site plan shall conform to the city's Comprehensive Plan; any sub-area plans; the city's Subdivision Ordinance; and all other applicable ordinances and statutes of the city and state.

(C) (1) The proposed development shall be designed with a proper regard to topography, surface drainage and water runoff onto adjacent properties, natural drains and streams, wooded area and other natural features which lend themselves to proper, harmonious and attractive development of the site.

(2) The landowner shall be deemed exclusively responsible for developing and implementing a plan.

(D) The proposed development shall be designed with adequate water mains, provisions for sanitary sewer service, storm water management facilities and flood control, in accordance with ordinances and regulations of the city and the state, and good engineering practice to protect the public health and welfare and not overload and existing public utilities.

(E) The proposed development of all structures therein shall be designed in such a manner as to create a quality environment and shall be architecturally and aesthetically harmonious and attractive.

(F) The design of the proposed development shall make adequate provision for fire protection through building placement, acceptable location of flammable materials and other measures to ensure fire safety.

(G) The design of interior vehicle and pedestrian circulation shall provide for convenient flow of vehicles and movement of pedestrians and shall prevent hazards to adjacent streets or property.

(H) The design of outdoor parking areas, storage yards, trash and dumpster areas and other exterior features shall be adequately landscaped or screened to minimize potential nuisance and impairment to the adjoining property.

(I) The proposed development shall limit entrances and exits upon adjacent streets in order to prevent congestion on adjacent or surrounding streets and in order to provide for safe and orderly vehicle movement.

(J) These criteria are necessary to fulfill the intent of this chapter and are the minimum necessary to safeguard the public health, safety, aesthetics and general welfare.

(Ord. 14871, passed 4-12-2010)

§ 156.483 SUBMITTAL REQUIREMENTS.

Standard site plans shall be required for all development and/or redevelopment. All site plans shall be drawn on a plain sheet of paper no larger than 11 inches by 17 inches.

(A) *Standard site plan requirements.* Standard site plans shall include the following information:

- (1) Date of preparation and north arrow;
- (2) A scale no larger than one inch equals ten feet and no smaller than one inch equals 100 feet;
- (3) Name, address and phone number of the owner of record of the property, applicant and the person(s) or firm preparing the site plan;
- (4) Property lines;
- (5) Location and applicable dimensions of existing structures and applicable driveways and entrances;
- (6) Location and dimensions of the proposed developments, including height;
- (7) A storm water management plan which details the direction of surface flow, any detention and/or retention areas, and any outlet control structures and devices. Additional information may be required if deemed necessary by the City Engineer. See also § 156.486 of this chapter; and
- (8) Where applicable, elevation views of existing and proposed structures from all directions. These elevation views shall indicate shape, height, type and color of materials. All drawings shall be to scale, with the scale indicated.

(B) *Additional site plan information required.* All commercial, multi-family and industrial developments and redevelopments of buildings larger than 120 square feet, and any development which increases water runoff shall include the following additional information:

- (1) Location and dimensions of all existing paved surfaces and all abutting streets. The grade shall be shown if deemed necessary by the City Engineer or Zoning Administrator;
- (2) The complete traffic circulation and parking plan including the location and dimension of all existing and proposed parking spaces, loading areas,

entrance and exit drives, curb cuts, pedestrian walkways, dividers, curbs, islands and other similar parking and drive improvements.

(3) Existing and proposed location of all outdoor trash and dumpster areas and method of screening such areas. Dumpster locations shall be screened, and shall not be visible from public streets and shall not be located in the right-of-way;

(4) Location and type of all existing and proposed signs and of all existing or proposed lighting of the property which illuminates any part of the required yard;

(5) Location of existing trees six inches or larger in diameter, any rock outcrops, landslide areas, springs and streams and other waterbodies, any areas subject to flooding;

(6) Location, amount and type of any proposed landscaping fences, walls or other screening as required by the zoning regulations;

(7) Soil tests, traffic impact studies, utility capacity analysis and similar information if deemed necessary by the Zoning Administrator or City Engineer for the city to determine the feasibility of the proposed development;

(8) Location and type of all plants, grass, trees or ground cover to be used in the landscape. Shall indicate the number of each size and species of tree and shrub. Type of ground cover and form or erosion control shall be illustrated; and

(9) Location of the nearest and all proposed fire hydrants.
(Ord. 14871, passed 4-12-2010)

§ 156.484 REVIEW PROCEDURE.

(A) *General.* For all developments or redevelopments, the Zoning Administrator shall have authority to review, change, amend and approve the site plans, only after consulting other pertinent city departments. If the applicant is not satisfied with the review standards, the applicant may appeal the recommendations to the Board of Adjustment.

(B) *Amendments to approved site plans.* An approved site plan placed on file may be amended with respect to location, size, design and conformity of buildings and other improvements; provided that, the amended site plan conforms to the general use regulations, performance standards and provisions of the district in which located. Amended site plans shall be reviewed and approved by the Zoning Administrator for all developments or redevelopments.

(C) *Expiration of approval.* All site plan approvals shall expire and terminate 365 days after the date of the city's approval, unless a building permit has been issued for the construction provided for in the site plan. In the event the building permit for construction provided for in a site plan expires or is canceled, then such site plan approval shall terminate.

(D) *Enforcement.* Any violation of this subchapter shall be punishable by § 156.999 of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.485 LANDSCAPING STANDARDS.

(A) (1) Any required landscaping shall be in place at the time an occupancy permit is approved.

(2) Should completion of landscaping be delayed because of the season of the year, a temporary occupancy permit may be issued if the developer posts a bond or other acceptable guarantee in the amount of the landscaping as completed.

(3) When filing a site plan, a developer may submit a list of alternate and substitute species from the permitted or established list to be used should the preferred material not be available when needed and required.

(B) All landscaping, buffering and screening shall be maintained at all times to conform to the regulations established in this subchapter. Landscaping, which is not maintained in a manner consistent with this subchapter shall be punishable by § 156.999 of this chapter.

(Ord. 14871, passed 4-12-2010)

§ 156.486 LIABILITY.

(A) Any landowner shall be deemed exclusively responsible for developing and implementing a plan to address storm water drainage, which shall be submitted to the city as a part of the site plan.

(B) The city shall not be responsible for any deficiencies which may later be determined to exist under the storm water management plan.

(C) The city shall undertake no corrective duties or actions concerning any said deficiencies.

(Ord. 14871, passed 4-12-2010)

BUFFERING AND LANDSCAPING

§ 156.500 PURPOSE.

Buffers provide transition and physical barriers between properties of differing land uses to reduce the effects of sight, sound and other incompatibilities. The creation of districts in itself does not sufficiently protect adjoining properties from possible detrimental influences.

(Ord. 14871, passed 4-12-2010)

§ 156.501 BUFFERING.

(A) *Conditions requiring a buffer.* Any lot in a commercial or industrial district, with the exception of the CBD and TN Districts, abutting any residential district shall be buffered.

(B) *Burden of providing buffers.* In all cases, the entire burden of providing the buffer shall be on the owner of the commercial or industrial property. Where lots in two different districts, requiring a buffer between them, are both in an existing improved condition, the requirements of this subchapter are not retroactive. However, in the event that any or all of the commercial or industrial improved property is destroyed or demolished, for the purpose of renewal, redevelopment or improvement, that portion of said property shall be subject to the requirements of this chapter.

(C) *General buffer requirements.*

(1) No part of any required buffer shall be used for parking, storage, loading, locating refuse containers or any similar activity which may create a nuisance.

(2) Buffers shall be properly maintained to satisfy the intended purpose in perpetuity.

(3) Landscape plantings should be predominately evergreen type trees and shrubs to provide year-round screening. Landscape plantings shall be reasonably dispersed throughout the required buffer.

(4) Buffers shall be located on the entire common perimeter between the contrasting districts and extend to the lot lines.

(5) Where the line between two districts requiring a buffer follows a public street right-of-way, stream or other similar barrier, the requirement for a buffer area may be waived by the Plan and Zoning Commission; provided that, such waiver does not permit the exposure of undesirable characteristics of land use to the public view.

(D) *Buffer methods.* Buffers required in this chapter shall be accomplished by any one or approved combination of the following options.

(1) *Lots platted or combined after the effective date of this chapter.*

(a) A buffer yard of 60 feet in width that includes a planting schedule equivalent to one overstory (or evergreen) tree and three shrubs per 35 linear feet of buffer; or

(b) A buffer yard of 30 feet in width that includes a planting schedule equivalent to one overstory (or evergreen) tree, two ornamental trees and six shrubs per 35 linear feet of buffer.

(2) *Existing lots platted prior to the effective date of this chapter.*

(a) A buffer yard of 15 feet in width that includes a planting schedule equivalent to a continuous row of overstory, evergreen and ornamental trees that effectively provides a solid visual barrier; or

(b) For existing lots platted prior to the effective date of this chapter that can provide evidence that the buffer required by this section would render the property unbuildable, the City Council may grant a waiver of the requirements. In such instances, the City Council may require the installation of a solid fence or wall to meet the intent of this chapter. The fence or wall shall be six feet in height and shall be constructed of a permanent, low maintenance material such as brick, stone, textured concrete, tile block, cedar or other similar materials determined appropriate by the Plan and Zoning Commission. The face of the fence or wall should be equally attractive on

both sides of the structure. Provisions for landscaping to soften the visual appearance of the structure and to provide additional buffering may be required by the Plan and Zoning Commission and shall be reviewed on an individual case basis.
(Ord. 14871, passed 4-12-2010)

§ 156.502 SCREENING.

(A) *Conditions requiring a buffer.* Any lot in a commercial or industrial district, with the exception of the CBD and TN Districts, abutting any residential district shall be required to have adequate screening of dumpsters and storage facilities.

(B) *Mechanical units.* For all new development or redevelopment, all ground mounted mechanical units, including, but not limited to, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment and any other related utility structures and equipment that are visible from any adjacent public thoroughfare shall be visibly screened from public view by the use of a screening wall built of materials compatible and consistent with the materials of the principal building; landscape plantings of predominantly evergreen type trees and shrubs to provide year-round screening; permanent earth-berming; or a combination of the above.

(C) *Trash dumpsters and receptacles.* Trash receptacles and dumpsters shall be screened on all sides by the use of a permanent enclosure, with gates for disposal truck access. The enclosure shall be constructed to visibly screen the receptacle from public view and from adjoining properties.

(D) *Outdoor storage and loading areas.* Any outdoor storage area or loading area that is visible from any public thoroughfare or any residential use shall be visibly screened from public view and adjoining properties with landscape plantings that are predominantly evergreen type trees and shrubs to provide year-round screening; permanent earth-berming; or the use of a screening wall built of materials compatible and consistent with the materials of the principal building.

(Ord. 14871, passed 4-12-2010)

§ 156.503 PARKING LOT LANDSCAPING.

(A) *Purpose.* The purpose of parking lot landscaping requirements are as follows:

(1) *Aesthetics and improved design.* Improve the aesthetic appearance and overall community design of the city to enhance the natural and built environments; and

(2) *Public safety.* Ensure that pedestrians and vehicles can safely use the parking lot.

(B) *Applicability.* The following requirements shall not apply to parking lots in the CBD Zoning District:

(1) New parking lots;

(2) Whenever a building or lot existing prior to the effective date of this chapter changes use or is altered or reconstructed by one or more additions, the sum

total which increases the floor area by 20% or more, the uses combined within the building and all enlargements shall thereafter comply with the parking and buffering requirements set forth herein;

(3) Whenever, by one or more reconstructions, a parking lot of more than 25 spaces is repaved or reconstructed by more than 20%, the lot shall comply with the requirements set forth herein; and

(4) The following are exempt from the requirements of this chapter:

(a) Any off-street parking exclusively used for single-family detached or single-family attached use;

(b) Any parking ramp or permanently covered area; and

(c) Any lot designed and built for industrial or manufacturing uses that provide no parking area for the public on a regular basis.

(C) *Submittal requirements for all parking lots.*

(1) *Landscape plan required.* A landscape plan for all parking lots regardless of size shall be prepared and submitted to the city for review and approval for any landscaping, buffer or screening required by the city.

(2) *Preparation of landscape plan.* To encourage landscape plans to be thoughtfully arranged so site elements are artfully and technically organized in a way that conveys meaning, coherence and spatial organization, a qualified individual or organization, as acceptable to the Zoning Administrator, shall prepare the landscape plan.

(3) *Landscape plan contents.* All landscape plans are subject to the requirements of §§ 156.480 through 156.486 of this chapter.

(D) *Approval procedure.*

(1) Prior to the issuance of any building permit, all required landscape plans shall be reviewed and approved by the Zoning Administrator. No landscaping plan shall be approved unless it conforms to the requirements of this subchapter, except as noted elsewhere in this chapter.

(2) All landscaping areas shall be provided and all landscape materials shall be installed consistent with the approved landscaping plan, prior to the issuance of a certificate of occupancy.

(E) *Parking area minimum landscaping requirement.*

(1) A landscape area shall be required along the full length of any side of a parking area that abuts any adjoining property (front, rear, side yard lot lines). The landscape area shall be provided between the parking area and the property line, and shall have a minimum width of five feet. The landscaped area shall include grass ground cover, shrubs, trees and other similar planting or ground cover material acceptable to the city. Landscape plantings shall be reasonably dispersed throughout the required landscape areas. All parking lots shall have curbing of acceptable materials to the city around the perimeter of the parking lot.

(2) This requirement shall not be necessary for multi-property developments on the side where shared parking will be utilized. Clear plans shall be shown as to how the adjacent property will share parking when it is developed.

(3) Any new development adjacent to a shared parking setup shall utilize that existing adjoining shared parking area.

(F) *Additional parking area landscaping requirements for larger parking lots.* Parking areas consisting, in their entirety, of 25 or more parking spaces shall be required to provide the additional landscaping treatments in this division (F), in addition to the five feet minimum landscaping requirement noted in division (E) above.

(1) Curbed entrance aisles shall be placed on both sides of all entrance drives and access roadways from the public street system to direct vehicles in and out of the site.

(2) Large parking areas shall be divided into smaller parking fields of no more than 200 parking stalls. The size of these parking fields is dependent upon the overall size of the parking lot, the number of entrance roads, the number of commercial uses and other site-specific factors. Each parking lot landscaping plan shall include design elements to address how pedestrians will be separated from vehicular traffic, how public sidewalks shall be linked to the development, how traffic will be properly managed and controlled and how interior landscaping can be included to improve the visual appearance. An effort shall be undertaken to include some overstory and ornamental trees in the parking lot landscaping plan.

(3) The end of every parking aisle shall have a landscaping island. This island shall be landscaped in accordance with this section.

(4) Every parking lot plan shall contain a method acceptable to the city to control diagonal traffic movement through the parking lot at places other than the designed rows. This may be accomplished through planter strips or medians every three to six rows. The purpose of this is to protect the public safety of vehicles and pedestrians.

(5) Every parking lot of more than 50 spaces shall have at least one pedestrian walkway.

(6) Parking lots shall be designed to minimize the interaction between incoming/exiting vehicles and pedestrians entering/exiting the structure.

(7) Landscaped areas shall include grass ground cover, shrubs, trees and other similar plantings or ground cover material acceptable to the city.

(8) Landscape strips, aisles and medians shall maintain a minimum width of five feet, and landscape areas located parallel to parking stalls shall maintain a minimum width of nine feet to ensure adequate area for the opening of vehicle doors. All landscape areas within the parking lot shall include sufficient area to ensure proper growth and protection of the landscaping materials planted therein.

(Ord. 14871, passed 4-12-2010)

PARKING AND LOADING

§ 156.515 PURPOSE.

The purpose of this subchapter is to provide adequate, attractive and safe parking and loading for all land uses in the city.

(Ord. 14871, passed 4-12-2010)

§ 156.516 WHEN PROVISIONS APPLICABLE.

The provisions of this subchapter are applicable when/for:

- (A) The development of principal and accessory uses;
 - (B) Whenever a building existing prior to the effective date of this chapter is structurally altered by one or more additions, the sum total of which increases the floor area 20 % or more, the uses contained within the building and all enlargements shall thereafter comply with the parking requirements set forth herein;
 - (C) No parking requirements apply to the CBD and TN Districts, with the exception that new or rehabbed mixed-use or residential developments, as of 1-1-2010 shall have one parking space for each dwelling unit on site or at a site approved by the Zoning Administrator;
 - (D) Commercial parking requirements shall be reduced by the number of on-street parking spaces in front of the commercial property. In the case of mixed uses, the parking and stacking spaces required shall equal the sum of requirements for the various uses computed separately, unless the businesses operate at substantially different hours (e.g., retail store and nightclub), at which point each parking space may be used towards the minimums of each use;
 - (E) All new and reconfigured parking lots greater than 25 spaces shall obtain a parking lot permit application from the Zoning Administrator prior to work being completed. Repaving of more than 20% of a lot shall require a parking lot permit application; and
 - (F) These requirements may be met with non-surface parking, such as rooftop parking, below-grade parking or multi-level parking structures; provided, a contract of use is provided to the Zoning Administrator before construction begins.
- (Ord. 14871, passed 4-12-2010)

§ 156.517 OFF-STREET SPACES REQUIRED.

The following table illustrates the number of parking spaces required according to the use of the land:

<i>Land Use</i>	<i>Zone</i>	<i>Requirement</i>
Animal hospitals and kennels	C	2 spaces per employee including doctors or professionals
Banks	C	1 space per 200 square feet of area within main building, and reservoir land averaging to 5 spaces per window
Beauty/barber shops	C	3 spaces per stylist
Boarding house	R	1 space for each bedroom
Bowling alley	C	5 parking spaces for each alley and 1 space for 300 gross square feet used for purposes other than alley space
Car wash	C	1 space per employee, plus 1 space for manager, plus spaces equaling 5 times the vehicle capacity

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<i>Land Use</i>	<i>Zone</i>	<i>Requirement</i>
		of the wash
Churches	I	1 space per 3 seats in auditorium including the balcony
Colleges and universities	I	1 space per 150 square feet of gross floor area
Commercial schools	C	1 space per 2 employees, plus 1 space per 5 students
Day care (including adult day care)	C	6 spaces total or 1-1/2 spaces per 10 clients at maximum capacity, whichever is greater
Elementary or junior high school	I	1 parking space per employee
		1 parking space per 20 student desks or classroom seating capacity
Fitness center	C	1 space per 125 square feet of gross floor area
Funeral home	C	1 space for each 100 square feet of gross floor area
Furniture store	C	1 space per 500 square feet up to 10,000 square feet and then 1 per 5,000 square feet thereafter
Golf course	C	4 spaces for each golf hole, 1 parking space for each employee on the premises during the maximum shift, plus 1 space per 100 square feet of restaurant, bar or pro shop floor area
Grocery store	C	1 space for 250 square feet of gross floor area
Group home	R	1 space for every 4 beds, plus 1 space per employee per average shift, plus 1 space per doctor on staff
Hospital	I	1 space per 2 beds, plus 1 space for physicians with hospital offices, plus 1 space per employee on the major shift other than doctors
Hotels/motels	C	1 space per guest room and 1 space for each employee on the maximum shift
Indoor theater	C	1 space per 3 seats up to 400 seats, plus 1 space per 4 seats over 400
Light and heavy industry plants	M	1 space per employee on the shift of maximum employment, plus 1 space per 10 office and administrative staff
Mall or other multi-tenant enclosed retail space	C	1 space per 300 square feet of retail or leasable space, bathrooms and any offices or an amount determined appropriate by the Zoning Administrator, not including common hallways
Manufactured/mobile home parks	R	2 spaces per unit
		1 space per 300 square feet of gross floor area for offices

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Land Use	Zone	Requirement
		A minimum of 1 off-street, hard surfaced guest parking space for each 4 mobile home spaces shall be provided at an acceptable location to the city
Medical clinic	C	5 parking spaces for each practitioner
Miniature golf course	C	1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area
Motion picture theaters	C	1 space per 4 fixed seats
Multi-family dwelling	R	Efficiency apartment: 1-1/2 spaces per unit
		1-2 bedroom units: 2.0 spaces per unit
		3+ bedroom units: 2.25 spaces per unit
		1 space per 300 square feet of gross floor area for offices
Offices	C	1 space per 200 square feet of gross floor area
Other uses	-	For uses not listed, parking spaces shall be provided as required by the Zoning Administrator
Philanthropic and charitable uses	C	1 space per 2 employees, plus 1 space for each 300 square feet of gross floor area
Postal service	C	4 spaces per customer service station
		2 spaces per 3 employees
		1 space per company vehicle
Retail (except furniture) and shops other than those listed	C	1 space per 300 square feet of gross floor area
Senior high school	I	1 parking space per employee
		1 parking space per 2-1/2 student desks or classroom seating capacity
		School auditoriums and gymnasiums: 1 parking space per 8 seats (18 lineal inches of bench = 1 seat)
Service/gas stations	C	1 space for each 150 square feet of gross floor area
Single-family attached, single-family detached, condominiums, 2-family dwellings	R	2 spaces per unit, excluding garage; rooftop, underground or stacked spaces shall count towards the requirement; tandem parking shall be allowed
Sports fields	I	9 per field/court/and the like
Taverns and restaurants	C	1 space per 100 square feet of gross floor area
		8 average queuing spaces per drive through, less than 8 requires approval of a special use permit

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<i>Land Use</i>	<i>Zone</i>	<i>Requirement</i>
		1 space per 300 square feet for take-out restaurants only
Wholesale establishments or warehouses	C	1-1/2 space for each person regularly employed on the premises

(Ord. 14871, passed 4-12-2010)

§ 156.518 PERFORMANCE STANDARDS.

(A) The storage of merchandise, materials, equipment, refuse containers, obsolete or junk vehicles or the repair of vehicles in required off-street parking and stacking spaces is prohibited.

(B) No new parking lot shall be larger than 125% of the requirements listed in this chapter at full build-out.

(C) The minimum number of accessible parking spaces shall conform to ADA requirements. Refer to Federal ADA Code for more information.

(D) Show lots for products or services in the GC, M1 and M2 Districts may be constructed of asphalt chips to allow for greater permeable surfaces. If any lot is used for public parking, it must conform to this division (D). This shall be approved by an appropriate person in the Engineering Department.

(E) Lots and work areas in the M2 District may be gravel or another appropriate surface as determined by the Zoning Administrator; providing, all entrances/exits are paved in accordance with the regulations of this chapter, and there is no public parking available in the graveled portion. In cases where gravel is permitted the city may require additional buffering or dust control. If the building use should change, the new use would need to comply with all applicable sections of this chapter.

(F) (1) All off-street parking and loading areas and access roadways for multi-family, commercial and industrial uses shall be paved with asphaltic or portland concrete cement in accordance with the specifications as herein set forth.

(2) The minimum thickness of pavement parking shall be as follows.

(a) Portland concrete cement shall have a minimum thickness of five inches.

(b) Bituminous asphalt shall have a minimum thickness of five and one-half inches.

(c) Materials used in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking area used for driveways, access roadways and frontage roads shall be specifically designed to accommodate the type and load bearing traffic that will be utilizing the access roadway.

(G) All parking areas, except those with single-family, townhouse, condominium and two-family dwellings, shall be designed where exiting does not require backing into a street.

(H) All new adjacent commercial properties/buildings shall share parking lots and/or lot entrances to reduce impermeable surface area and encourage multi-destination trips. All existing adjacent commercial uses shall be encouraged to

share parking lots and/or entrances if redeveloped. Required buffering will be reduced when creating shared parking.

(I) The Engineering Department and Zoning Administrator may approve use of permeable paving materials in order to reduce water runoff, if both departments agree on the scope of the work.

(J) All new driveways and driveway extensions, regardless of zoning or use, shall be paved with asphaltic or portland concrete cement in accordance with the specifications as herein set forth.

(Ord. 14871, passed 4-12-2010)

§ 156.519 OFF-STREET PARKING ON A SEPARATE LOT.

The Board of Adjustment may grant a special exception for off-street parking and stacking spaces on a separate lot from the use served when:

(A) After a recommendation has been given by the Plan and Zoning Commission;

(B) Two or more uses share the same off-street parking and stacking spaces, aisles and drives;

(C) An increase in the number of spaces is required by a conversion or an enlargement of use;

(D) In a commercial or industrial district, non-required off-street parking cannot be provided on the property where the principal use is located, and such parking will be constructed on a separate lot prior to establishment of a principal use on that lot;

(E) The nearest point of the parking area to the nearest point of the building that the parking area is required to serve is less than 300 feet; and

(F) A written agreement properly executed by the owners within the area of the special location plan, assuring the retention of parking and stacking spaces, aisles and drives and binding upon their successors and assigns, shall be submitted with the special location plan as a covenant running with the land.

(Ord. 14871, passed 4-12-2010)

§ 156.520 OFF-STREET LOADING REQUIREMENTS.

(A) *General.* With any retail use, warehouse, supply house, wholesale distributor, manufacturing establishment, industrial or research laboratory or similar use which requires the receipt or distribution of materials or merchandise by trucks or vans and which has a floor area of 10,000 square feet or more, there shall be provided the minimum number of loading spaces as follows:

<i>Square Feet of Aggregate Gross Floor Area</i>	<i>Minimum Required Number of Spaces</i>
10,000 to 20,000	1
20,000 to 40,000	2
40,000 to 80,000	3

<i>Square Feet of Aggregate Gross Floor Area</i>	<i>Minimum Required Number of Spaces</i>
80,000 to 120,000	4
120,000 to 160,000	5
For each additional 80,000	1 additional

(B) *Performance standards.*

(1) Each loading space shall not be less than ten feet in width and 25 feet in length for loading spaces not requiring loading dock access and 50 feet in length for loading dock access for trucks.

(2) All loading yards and accesses to loading yards and loading docks shall be paved with asphaltic or portland concrete cement in accordance with surfacing requirements set forth in this chapter.

(3) Loading areas shall have lighting capable of providing adequate illumination for security and safety. Lighting fixtures shall be energy efficient and in scale with the height and use of the structure. Any illumination, including security lighting, shall be directed away from adjoining properties and public right-of-way.

(4) Loading areas shall be striped indicating the loading spaces and identifying the spaces for loading only. The striping shall be permanently maintained in clear and visible manner.

(5) Sufficient space for turning and maneuvering loading vehicles shall be provided on the site.

(6) No area may be utilized and counted both as a required parking space and a loading dock.

(7) Loading spaces with the exception of the CBD and TN Districts shall be designed so that trucks or vans loading or unloading do not back onto or out of a street.

(8) No loading spaces shall be within 50 feet of an R district.

(9) Loading spaces in any front, side or rear yard shall not be closer than five feet to a lot line.

(10) All parking lots shall provide a dedicated way for pedestrians to access the building from the public sidewalk or right-of-way.

(Ord. 14871, passed 4-12-2010)

§ 156.521 LIGHTING STANDARDS.

The following lighting standards shall be followed for parking and loading areas.

(A) Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to divert the light away from adjoining residential uses or premises in any residential district and away from traveled public roadways.

(B) Lighting fixtures shall possess sharp cut-off qualities at property lines.

(C) Any project that proposes the use of wall pack lighting on the perimeter of the property shall be required to prepare an exterior lighting plan for review and approval by the city.

(D) Any lighting which exceeds one foot candle at the property line shall not comply with the requirements of this subchapter.

(E) Low pressure sodium lighting fixtures are prohibited.
(Ord. 14871, passed 4-12-2010) Penalty, see § 156.999

§ 156.522 PARKING LOT LANDSCAPING REQUIREMENTS.

See §§ 156.500 through 156.503 of this chapter.
(Ord. 14871, passed 4-12-2010)

RESIDENTIAL FLEXIBILITY STANDARDS

§ 156.535 PURPOSE.

The purpose of residential flexibility standards is to:

- (A) Permit more flexible and unique designs that meet community objectives;
- (B) Permit alternative housing types in selective residential districts;
- (C) Create larger common green spaces around residential developments;

and

- (D) Improve the appearance of multi-family developments.

(Ord. 14871, passed 4-12-2010)

§ 156.536 APPLICABILITY.

(A) Residential flexibility standards shall only apply to new multi-family structures on two-acre or greater development parcels in R-4 and R-5 Districts.

(B) Development must follow the procedures set forth below.

(C) Existing structures or lots smaller than two acres shall follow the traditional procedures.

(Ord. 14871, passed 4-12-2010)

§ 156.537 REQUIRED MINIMUM STANDARDS.

The following table illustrates the bulk requirements for the flexibility standards in development:

<i>Standard</i>	<i>Minimum Requirements</i>
Front yard	
R-4	30 feet
R-5	20 feet

<i>Standard</i>	<i>Minimum Requirements</i>
Minimum lot width of the zoning lot	150 feet
Minimum separation between principal and accessory structure	20 feet
Minimum side yard of the zoning lot	10 feet
Minimum street frontage of the development parcel	150 feet
Rear yard	25 feet
Separation distance between buildings	16 feet

(Ord. 14871, passed 4-12-2010)

§ 156.538 REVIEW AND APPROVAL PROCESS.

All developments using the residential flexibility standards shall follow the site plan review process detailed in §§ 156.480 through 156.486 of this chapter.
(Ord. 14871, passed 4-12-2010)

SIGNS

§ 156.550 PURPOSE.

The purposes of this subchapter include, but are not limited to: permitting and regulating signs which allow businesses, residents and other interested parties to communicate, advertise or be identified; assuring compatibility of signs with surrounding land uses; preventing a proliferation of signage which may reduce the effectiveness of individual signs; preventing visual clutter and promote the aesthetic appearance of the community; and preventing the size, location, construction or manner of display of signs from endangering the public safety of individuals; which are confusing, misleading or obstructing the vision necessary for traffic safety; or otherwise endangering the public health, safety, morals and general welfare.
(Ord. 14871, passed 4-12-2010)

§ 156.551 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless specifically defined below, words or phrases used in this subchapter shall be defined in accordance with § 156.002 of this chapter.

ABANDONED SIGN. A sign which advertises or identifies a product, place, activity, person, profession, service, institution or business which is no longer conducted

or available on the premises or elsewhere. Signs that have been in a state of disrepair for at least 90 days are also considered **ABANDONED SIGNS**.

ABANDONED SIGN STRUCTURE. Includes, but is not limited to, supports, uprights, braces, mounting device, hardware or framework of a sign which are in a state of disrepair and/or has not been used for at least 90 days.

ACCESSORY SIGN. A sign which invites, proposes, or promotes a commercial transaction by directing attention to a product, place, activity, person, profession, service, institution or business which is located, produced, conducted, sold or offered on the same premises where the sign is located, including, but not limited to, wall signs, projecting signs, monument signs and freestanding signs.

ADVERTISING SIGN. A sign invites, proposes, or promotes a commercial transaction by directing attention to a product, place, activity, person, profession, service, institution or business which is located, produced, conducted, sold or offered elsewhere than on the premises where the sign is located.

ALTERATION. Any act or process that changes one or more of the exterior features of a structure.

AWNING. A structure generally supported by a building that does not contain any electronic components is generally constructed from a fabric-like material.

AWNING SIGN. A sign incorporated into or attached to an awning.

BANNERS, PENNANTS, STRING LIGHTS. Temporary signs hung with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic, fabric or other similar material.

CANOPY. A permanent non-walled structure designed and built to provide shelter from the elements for business transactions which is not usually attached to a primary structure. Customarily found at gas stations.

CHANGEABLE COPY SIGN. A sign that is designed so that characters, letters or illustrations can be periodically changed or rearranged, manually or automatically, without altering the face or the surface of the sign.

DESIGN GUIDELINES. Regulations intended to preserve the historic and architectural character of the district.

DIRECTIONAL/INFORMATION SIGN. Any sign giving directions, instructions or information principally to pedestrian or vehicular traffic.

ELECTRONIC MESSAGE CENTER. A electronically designed sign displaying text, pictorial images or videos in digital format.

FLASHING SIGN. A sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source.

FREESTANDING SIGN. A sign which is supported by one or more columns, ropes or lines, uprights, poles or braces in or upon the ground and not attached to any building, structure or wall. This term shall include, but shall not be limited to, signs placed directly upon the ground, but not monument signs.

GHOST SIGN. A sign, painted or made of wood, upon the facade of a building, that is in excess of 50 years old and which generally advertises an extinct business.

ILLUMINATED SIGN. Any sign illuminated in any manner by an artificial light source.

INFLATABLE SIGN. Any sign designed to be filled with air or otherwise inflated.

MARQUEE. Any structure protruding over a right-of-way for the purposes of signage or shelter from the elements that is supported by a primary building.

MENU BOARD. A permanently mounted accessory sign displaying the bill of fare of a drive-in or drive-through restaurant.

MONUMENT SIGN. A ground sign which is mounted in or on a monument and does not have any exposed pole or pylon, and is attached to a base for at least 60% of the entire width of the sign.

NON-CONFORMING SIGN. Any sign, which does not conform to the regulations of this subchapter.

OUT LOT. A lot either sold or leased within the RC, Regional Commercial, District separate from the lot containing the shopping center.

PORTABLE SIGN. A sign, which by its construction or nature is designed to be moved from one location to another. When on a trailer, the removal of wheels or undercarriage, or the anchoring of the sign by means of chains, wires, concrete blocks, sandbags or other types of temporary anchors, does not change the classification of the sign.

PROJECTING SIGN. A sign attached to and projecting more than 18 inches from the building face or wall.

PYLON SIGN. Any freestanding sign which is supported by a structure that is attached to the base for less than 60% of the entire width.

ROOF SIGN. A sign erected upon or above a roof or parapet wall of a building, and which is wholly or partially supported by said building.

SANDWICH BOARD. A two-sided sign, also called an A-frame sign, which is a temporary portable sign commonly used on sidewalks directing patrons to or advertising for a business.

SIGN. Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations.

SIGN AREA. The area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary exposed supports or uprights on which the sign is placed. If the sign consists of more than one section or module, all areas shall be totaled. The **AREA OF SIGNS** composed of words or characters attached directly to a building or wall shall mean and shall be computed as the area within a regular geometric shape that encloses the words or characters. The **AREA OF SIGNS** composed of spherical, three-dimensional, free form, sculpture and other non-planar shapes shall be the sum of the areas of the four vertical sides of the smallest polyhedron (cube like volume) that will enclose the sign structure. The area of back-to-back signs shall be taken as the area of one sign face if the two sign faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

SIGN HEIGHT. The vertical distance from the uppermost point on a sign to the surrounding grade level immediately below and upon which the sign is located.

SIGN STRUCTURE. Any supports, uprights, braces, mounting device, hardware or framework of a sign.

TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs, including but not limited to political signs, real estate signs, garage sale signs, banners, and special event signs.

WALL SIGN. A single faced sign painted on or attached parallel to a supporting wall and not extending more than 18 inches from a wall or building.

WINDOW DISPLAY SIGN. A sign or applied directly to a window.

ZONING LOT. A single tract of contiguous land to be used or developed as one unit under single unified ownership or control, and which meets all minimum requirements and provisions of this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.552 GENERAL PROVISIONS.

The following general provisions shall apply to the regulation of signs in all zoning districts within the city. No sign shall be located, erected or maintained except in compliance with the provisions contained herein.

(A) *Sign permit fees and requirements.*

(1) Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the city, or cause the same to be done, without first obtaining a sign permit for each such sign from the Zoning Administrator as required by this chapter.

(2) All signs that require a permit shall be required to pay a sign permit fee, which shall be set by resolution approved by the City Council.

(3) These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way.

(4) No new permit is required for signs which have permits and which conform with the requirements of this chapter on the date of its adoption unless and until the sign is altered or relocated.

(5) Upon proper application by the sign owner, the Zoning Administrator shall issue a permit for any conforming sign. Review and decision on an application shall not be unduly delayed. Except as authorized by this chapter or other law, a denial shall not be based on the sign's content. The denial of a permit may be appealed to the Board of Adjustment, whose decision is subject to judicial review pursuant to I.A.C. § 414.15.

(B) *Inspection; notice to remove non-conforming signs; action on failure to comply.*

(1) If the Zoning Administrator finds a sign to be non-conforming, the Zoning Administrator shall cause notice in writing to be given the owner of the sign or the owner of the building to which it is attached to at once remove the sign.

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(2) If such owner neglects or fails to comply therewith, the Building Official or Zoning Administrator may cause the sign to be removed and the expense thereof to be assessed against the owner of the building or sign and collected as other special taxes.

(3) Anyone violating any of the provisions of this subchapter shall be subject to a fine that shall be set by resolution.

(4) Any fines issued or actions taken by the Zoning Administrator under this subsection may be appealed to the Board of Adjustment, whose decision is subject to judicial review pursuant to I.A.C. § 414.15. Removal of a sign shall be stayed during such appeal unless the sign presents a danger to public safety.

(C) *Exemptions.* The following signs are exempted from the permit requirements of this subchapter, unless specified elsewhere herein, but must be in compliance with all other applicable codes and ordinances:

(1) Address and nameplate signs, not exceeding one square foot in surface area, containing only the address of the premises upon which it is located and related non-commercial information;

(2) Signs installed pursuant to city permission at the South 6th Street softball complex and other city-owned sports complexes;

(3) Any sign located within a structure;

(4) Banners on utility poles in the public right-of-way approved by the Public Works Director;

(5) Directional/information signs displayed strictly for the direction, safety or convenience of the public, including signs which identify restrooms, telephones, danger areas, parking area entrances or exits, freight entrances or the like. Such signs shall not exceed six square feet in area and shall not exceed four feet in height. Directional signs shall be allowed off-premises on private property, with the written approval of the property owner, agent or authorized business representative where the sign is located, and within 750 feet of the property where the activity is taking place. Such signs shall only direct traffic to the property and not be used for commercial advertising purposes;

(6) Flags, not exceeding 15 square feet, but not including painted or printed images of flags otherwise constituting a sign;

(7) Ghost signs or rehabilitated ghost signs;

(8) Grave markers, statues or sculptures that are not commercial in nature;

(9) No trespassing signs less than four square feet;

(10) Plaques, tablets or names of buildings and date of erection when cut into any surface of when such sign is attached flush to the building or commemorative plaques or monuments placed by historical organizations;

(11) Public notices and other signs erected by government agencies or utilities;

(12) Safety and warning signs, such as warnings of high voltage, explosives, hazardous materials and other dangerous situations;

(13) Sandwich board signs on sidewalks in the Historic District(s) and TN Districts, so long as they were designed and originally built as sandwich boards and

leaves an unobstructed pathway of at least four feet for pedestrians. The signs shall be no larger than eight square feet per side and no taller than five feet;

(14) Signs applied directly onto the body of a car, truck, bus, trailer or other vehicle if such vehicle is operated in the normal course of a business and such vehicle is not used primarily to display such sign;

(15) Signs and notices required to be displayed, maintained or posted by law or by any court or governmental order, rule or regulation;

(16) Window display signs;

(17) Temporary signs, subject to the following conditions:

(a) *Signs advertising sale of premises.* Signs advertising the sale of a premises must be non-illuminated, and must not exceed nine square feet in area and six feet in height. Not more than one such sign shall be permitted per street frontage (excluding open house signs). They may be placed on the premises for sale or lease or in the public right-of-way abutting the premises. Signs in the public right-of-way must be a minimum of six feet back from the street or back of curb and 20 feet from intersections. Signs should not be placed where they would cause a visual obstruction to pedestrian or vehicular traffic. These signs shall be removed within 30 days of sale of the premises.

(b) *Open house signs.* Open house signs must meet the same size requirements as signs advertising the sale of a premises. Such signs may be placed in the public right-of-way abutting the premises for sale or lease and/or at another location, provided permission is obtained from the abutting property owner. Such signs are permitted for a maximum period of three days preceding the open house. The date and time of open house must be included on the open house sign. Other types of directional signs advertising property for sale are not permitted off premises (such as, directional arrows).

(c) *Residential zoned development.* Signs advertising the rental or lease of the premises or part of the premises on which the sign is displayed must be non-illuminated, must not exceed nine square feet in area and six feet in height. Such signs shall be removed within 30 days of lease of the premises or part of the premises on which sign is displayed. Such signs shall not be permitted in the public right-of-way.

(d) *Commercial/industrial zoned development.* Signs advertising the architects, engineers, contractors, occupants or other individuals involved in the construction, reconstruction or remodeling of a building and/or development project or signs announcing the character and/or purpose of the site must be non-illuminated, and must not exceed 120 square feet in area and eight feet in height. These signs must observe a minimum setback of 15 feet. Such signs shall not be erected until building permits have been issued and shall be removed immediately upon project completion.

(e) *Residential zoned development.* Signs advertising the architects, engineers, contractors, occupants or other individuals involved in the construction, reconstruction, remodeling or financing of a building and/or development project shall be non-illuminated, and shall not to exceed nine square feet in area and six feet in height. Such signs shall be removed within 30 days of project completion.

(f) *Sale of real estate in residential subdivision.* One non-illuminated sign is permitted in any residential real estate development indicating

real property for sale or rent, not larger than 120 square feet in area. In no case is any such sign to be located closer than 30 feet to any street line. In no case shall such sign be permitted after residences have been erected on 60% of the lots in the subdivision or after more than 60% of the lots have been sold.

(g) *Sale of real estate in commercial subdivision.* One non-illuminated sign is permitted in any commercial or industrial real estate development indicating real property for sale or rent, not larger than 120 square feet in area. In no case is any such sign to be located closer than 30 feet to any street line. In no case shall such a sign be permitted after more than 60% of the lots in the subdivision have been built upon or sold.

(D) *Prohibited signs.* The following signs are prohibited in all zoning districts within the city:

- (1) Abandoned signs;
- (2) Damaged or broken signs;
- (3) Wall signs on single-family or duplex units, except the one wall sign not exceeding one square foot shall be permitted on each single-family dwelling or duplex unit;
- (4) Flashing signs, including those illuminated by or containing flashing, intermittent, rotating or moving light or lights. This prohibition shall not apply to electronic message centers;
- (5) Snipe signs or signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way;
- (6) Signs placed on vehicles or trailers, which are parked or located for the primary purpose of displaying said sign. Signs on vehicles or trailers must be parked on private property when not in use;
- (7) Signs, which revolve or swing by using mechanical devices;
- (8) Any sign emitting sound other than that normal for their internal operation;
- (9) Any sign, which contains statements, words or pictures constituting an obscenity;
- (10) In no event shall an illuminated sign or lighting device be placed or directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance. All signs shall be screened from beaming on residential windows;
- (11) No sign shall be erected so as to prevent free ingress to, or egress from, any door, window or any other exitway required by the Building Code or Fire Code of the city or by any other ordinance;
- (12) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving devices, except as specified herein;
- (13) No sign shall simulate official, directional or warning signs erected or maintained by the city or by the state;
- (14) No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct free and clear vision of the intersection;

(15) No neon sign or other illuminated advertisement shall be of such color or located in such a manner as to diminish or detract in any way from the effectiveness of any traffic signal or similar safety or warning device;

(16) No building wall, pylon, or monument sign shall be used as an advertising sign, except as expressly provided in this chapter. However, subject to the provisions of this chapter, such signs may be used as accessory signs with respect to the premises where the sign is located;

(17) No sign or sign structure shall be placed on private or public property without the consent of the owner or authorized agent thereof;

(18) No new sign shall be placed on the roof of any building as of the date of this chapter; however, if damaged, existing roof signs may be rebuilt to the size, shape and design of the sign immediately prior to damage; and

(19) No sign shall be located in or over any public right-of-way, except as specified herein.

(E) *Supplemental provisions.*

(1) The construction, installation, erection, anchorage and maintenance of all signs shall be subject to the applicable codes and ordinances of the city.

(2) All signs and sign structures requiring electrical connections must meet all requirements set by the City Electrician and applicable codes and ordinances of the city.

(3) All signs and sign structures shall be erected and maintained in a safe condition. It shall be the responsibility of the sign owner or property owner to keep all signs thereon properly maintained.

(4) Signs not to exceed 12 square feet on bus shelters shall be allowed in any zoning district. All signs must be non-electrical. Only one sign/sign face per shelter shall be allowed.

(5) Banners solely on light or utility poles on private commercial or industrially-zoned property not exceeding 16.34 square feet shall be allowed with a sign permit.

(F) *Non-conforming signs.* Legally established signs, other than portable signs as herein defined, existing on the effective date of this chapter which do not conform to the provisions of this subchapter shall be classified as legal non-conforming signs and be allowed to continue as such. No non-conforming sign shall be altered, reconstructed, enlarged, extended or relocated, except in compliance with the provisions of this subchapter. For purposes of this section only, the terms "altered" and "reconstructed" shall not include minor maintenance, minor repair, landscaping around the sign or the replacement of bulbs, changeable letters or figures or other embellishments if such changes do not increase the size of the sign or the degree of its non-conformance.

(G) *Projecting signs.* Projecting signs may be erected in commercial and industrial districts; provided that, such signs shall project no more than eight feet from the building to which attached; and, provided that, the minimum clearance from grade shall be nine feet above any pedestrian way and 17 feet above any vehicular way. Said signs may project into or over any public right-of-way; provided that, the sign projects not more than six feet into said right-of-way and is located not closer than two feet to the

back of the curb. Any business that uses a projecting sign shall have one allowable wall sign size reduced by the total area of the projecting sign.

(H) *Portable signs.* Portable signs may be located in any commercial or industrial district on a temporary basis through issuance of a permit. Said portable sign permit shall have a fee set by resolution, approved by City Council. Such signs shall not exceed 50 square feet in area, shall not exceed six feet in height and shall not be located in any public right-of-way. One portable sign shall be permitted on any zoning lot for a period of not more than 60 days in any calendar year. Off-premises advertising is prohibited. Portable signs may not be adapted for use as permanent signs. All portable signs being displayed on the effective date of this chapter are subject to the above regulations and shall be removed within 30 days unless authorized in accordance with the provisions stated herein.

(I) *Inflatable signs.* Placement is limited to 60 days per calendar year.

(J) *Advertising signs.*

(1) Structures shall be limited to two faces per sign, shall not exceed 30 feet in height and shall have a total sign face area visible in any one direction of traffic not exceeding 300 square feet. Advertising structures shall be constructed of metal or other durable materials. Poles made of wood shall not be considered acceptable.

(2) The minimum distance between advertising signs shall be 500 feet when adjacent to Highway 30, and 300 feet on other streets, whether on the same side of a street or on opposite sides of a street.

(3) Advertising signs shall be set back a minimum of 50 feet from Highways 14 and 30 and Iowa Avenue. Setbacks from other streets shall be 30 feet. Where any advertising sign is directly adjacent to lots with buildings, the setback shall be no less than the building structure, but no sign shall be required to have a setback greater than 50 feet.

(4) No advertising sign shall be permitted within 100 feet of any residential zoning district boundary.

(5) Advertising signs may be permitted in the following areas of the city: any M1 or M2 District, any commercial district adjacent to Highway 30 and Iowa Avenue, commercial districts adjacent to highway 14 south of Southridge Road, commercial districts north of Riverside Cemetery specifically on the west side of Highway 14.

(K) *Electronic message centers.* The following provisions apply to electronic message centers installed following the effective date of this code.

Audio or pyrotechnics	Not allowed
Brightness	Daytime: 10,000 nits
	Nighttime: 1,000 nits
Color	No limit
Description	Moving pictures, with or without text
Dimmer control	Required
Minimum duration	1 second transition between static pictures
Orientation	Not within 100 feet of a dwelling

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Other	No aggressive flashing or blinking
Setbacks	No limit
Size of electronic portion	Maximum 50 square feet/side

(L) *Changeable copy signs.* When combining a changeable copy sign with a pole sign or monument sign, the following standards shall be met. The changeable copy sign shall be integrated into other signage in a permanent manner, shall be placed directly below the commercial message sign or in a manner which looks integrated and natural, and both signs shall be facing the same direction and at the same angle. The total sign area of the changeable copy and the commercial message signs shall not exceed the allowable sign area, height, setback and all other requirements for the given district.

(M) *Awnings and marquees.*

(1) Any awning or marquee extending over any public street or thoroughfare shall be constructed by either the following methods:

(a) Constructed on steel beams projecting through the street wall of the structure or building and capable of supporting the weight of such canopy or marquee and an additional live load weight of 60 pounds per square foot; or

(b) Solidly anchored against the street wall of such building or structure on steel plates bolted through the wall and hung by rigid rods anchored through such street wall and attached to the extended portion of such canopy or marquee and capable of carrying the weight thereof and an additional live load weight of 60 pounds per square foot.

(2) Awnings, as defined in this subchapter, shall be attached to framework securely anchored to the street wall of the building or structure in a manner approved by the Building Commissioner and upon a permit issued by him or her.

(3) Any marquee or awning permitted to extend over any public street or thoroughfare shall conform to the following:

(a) It shall not extend in one section more than 25 feet along the line of the street.

(b) It shall provide a minimum clearance above the sidewalk of the lowest part thereof of not less than seven feet.

(c) It shall not extend beyond the street line nearer than 18 inches to a vertical extension of the curb line.

(d) The owner of any building or the lessee thereof constructing any marquee or awning from a street wall and extending over any portion of a public sidewalk or thoroughfare shall be liable for injury to any person using such public sidewalk underneath or adjacent to the canopy, marquee or awning resulting from any faulty construction, maintenance or dangerous condition of the marquee or awning and shall hold the city harmless for such injury.

(N) *Wall signs.* Wall sign requirements apply to all zoning districts. Signs shall only be allowed on two walls of a leased or owned space.

(1) *Primary wall.*

(a) The sum of all signage on the primary wall shall not exceed one and one-half square feet for every one linear foot of primary wall frontage length.

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(b) In no event shall any wall sign extend beyond the width of the building or more than six feet above the top of the building wall or parapet.

(c) Buildings having a setback from the street of at least 150 feet will be permitted to have two square feet for every one linear foot of primary wall frontage length.

(2) *Secondary wall.* Signs shall be permitted on one secondary wall where the signage shall not exceed one-half square feet for every one linear foot of secondary wall frontage length.

(O) *Freestanding signs.* The following provisions for freestanding signs shall apply to the regulation of signs in the respective zoning districts within the city. Any letters ((a) and the like) refer to the notes following the table. Sign faces shall be only allowed on two sides of a freestanding sign. Three-sided and larger signs are not allowed. Provisions restricting the type of signs permitted in each district shall not apply to temporary signs.

District	Max. # per Lot	Max. Height	Max. Area	Min. Setback**	Spacing***	Min. Distance from R District
A-1	1	10 feet	48 square feet	0'	25'	NA
R District*	1	6 feet - monument sign only	48 square feet	10'	25'	NA
NC	1	10 feet - monument sign only	48 square feet	10'	25'	10'
ED	2	1) 20 feet 2) 6 feet - monument only	48 square feet	10'	25'	10'
TN	1	10 feet - monument sign only	48 square feet	10'	25'	10'
CBD	1	10 feet	48 square feet	0'	25'	NA
CC	1	Arterial: 30 feet Others: 20 feet	Along arterial: 120 square feet Other streets: 100 square feet	0'	50'	30'
GC	1	Arterial: 30 feet Others: 20 feet	Along arterial: 120 square feet Other streets: 100 square feet	0'	50'	30'
OP	1	10 feet - monument sign only	48 square feet	10'	25'	10'
RC	(a)	Arterial: 30 feet Others: 25 feet Monument: 10 feet	(a)	0'	50'	30'
PC	(b)	Arterial: 30 feet Others: 20 feet Monument: 10 feet	Along arterial: 120 square feet Other streets: 100 square feet	0'	50'	30'
M1, M2	1	Arterial: 30 feet	Along arterial: 150	0'	50'	30'

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District	Max. # per Lot	Max. Height	Max. Area	Min. Setback**	Spacing***	Min. Distance from R District
		Others: 20 feet	square feet Other streets: 120 square feet			

NOTES TO TABLE:

*Monument signs in residential subdivisions shall be allowed on private property when indicated and approved on a final plat.

*Monument signs shall be allowed when placed by the city depicting historic district(s) or other cultural points of interest.

*Signs shall only be placed on non-residential or multi-family buildings.

**Setbacks are measured from the property line.

***Spacing refers to the minimum distance allowable between signs.

Signs in the NC and TN Districts shall only be allowed on properties containing a commercial use or multi-family development.

a) *Regional Commercial District.*

1. *Major sign.* One freestanding sign of not more than 300 square feet and not exceeding 30 feet in height shall be permitted on that side of the RC Regional Commercial District that fronts on a major thoroughfare and is considered the main entrance, for the express purpose of identifying the shopping center and the business establishments included therein.

2. *Secondary sign.* One additional freestanding sign shall be permitted on a secondary frontage of the RC Regional Commercial District. If the property adjacent or across the street from the secondary frontage is a residential district, the secondary sign shall conform to the CC Community Commercial District regulations.

3. *Monument sign.* One additional monument sign shall be permitted in the RC Regional Commercial District on any street frontage. Such signs shall not exceed 48 square feet in area and 10 feet in height.

4. *Out lot sign.* One freestanding sign shall be permitted on any out lot in the RC Regional Commercial District. Such sign shall comply with the requirements of the CC Community Commercial District regulations.

b) *Planned Commercial District.*

1. *Major sign.* Each legal lot shall be allowed 1 main freestanding sign. One additional monument sign shall be permitted in the PC, Planned Commercial District on any street frontage if more than 100,000 square feet is being developed contiguously. Such signs shall not exceed 48 square feet in area and 10 feet in height.

KEY TO TABLE:

A-1	Agricultural Reserve District
R District	Includes R-1, R-2, R-2A, R-3, R-4, R-5 and R-6 Residential Districts
NC	Neighborhood Commercial District
ED	Education District
TN	Traditional Neighborhood District
CBD	Central Business District
CC	Community Commercial District
GC	General Commercial District
OP	Office Park District
RC	Regional Commercial District
PC	Planned Commercial District
M1 and M2	Industrial Districts

(P) *Historic district(s) signs.*

(1) The purpose of this division (P) is to promote the educational, cultural and economic welfare of the public of the city by preserving and protecting historic structures, sites and neighborhoods which serve as visible reminders of the history and cultural heritage of the city, state or nation. Furthermore, it is the purpose of this section to strengthen the economy of the city by stabilizing and improving property values in historic areas, and to encourage new developments that will be harmonious with the existing historic buildings and squares. Lastly, it is the purpose of the chapter to foster civic pride and to enhance the attractiveness of the community to residents, potential residents and visitors.

(2) The following general provisions shall apply to the regulation of signs in historic district(s). No sign shall be located, erected or maintained, except in compliance with the regulations contained herein.

(a) Accessory signs in historic district(s) must meet regulations in the city's historic district sign regulation packet included as an appendix to Ordinance 14871.

(b) If the Zoning Administrator determines that the proposed sign does not meet the requirements of the historic district sign regulations and the applicant may appeal the decision of the through application to the Board of Adjustment in accordance with §§ 156.620 through 156.626 of this chapter. The Board of Adjustment shall have no power to amend, change or limit the regulations contained in the historic district sign regulation packet.

(c) Signs installed in the absence of a permit shall be considered in violation of this subchapter and subject to the penalties set forth in § 156.999 of this chapter.

(d) No freestanding signs or electronic message center signs shall be allowed in historic district(s).

(e) Banners are allowed up to three days per month.

(Q) *Highway 30 Sign Overlay District.* The following provisions shall apply to the Highway 30 Overlay District whose boundaries are the full length of the city limits along both sides of Highway 30 including land within 150 feet of the property line adjacent to the Highway 30 right-of-way.

(1) No person shall develop, install, locate or construct any sign requiring a permit within the Highway 30 Overlay District, except as expressly authorized in this subchapter. The provisions of this division (R) shall apply in addition to any other zoning district regulations in which land may be classified and such lands may be used as permitted by such other districts.

(2) A maximum of four accessory signs per business, but not more than two freestanding signs per zoning lot shall be permitted as follows, regardless of the number of accessory and freestanding signs permitted in an underlying zoning district.

(a) One freestanding sign shall be permitted which meets the zoning requirements for the zoning district in which the land is located.

(b) One freestanding sign shall be permitted and shall be located in the Highway 30 Overlay District with a maximum sign height of 40 feet above the elevation of the centerline of Highway 30 at a point perpendicular to placement of

the sign. Maximum sign square footage requirement is 150 square feet. The sign must be located within the overlay district and be set back a minimum of 50 feet from the property line adjacent to the Highway 30 right-of-way.

(3) Only one non-freestanding accessory sign may be placed on any one side of the building.

(4) The maximum signage for the zoning lot as established in the underlying zoning district continues to apply to property in the overlay district.

(R) *Canopy signs.*

(1) (a) On two sides of a canopy with a length of 30 feet or less, each side may have a sign with square footage equal to one-half times the square feet of that side.

(b) On two sides of a canopy larger than 30 feet, each side may have a sign with square footage equal to one third times the square feet of that side.

(2) A third side may have a sign with the square footage equal to one-fourth times the square feet of the side.

(3) Signs shall not extend above or below the physical structure.
(Ord. 14871, passed 4-12-2010)

SPECIAL USE REGULATIONS

§ 156.565 PURPOSE.

(A) Special uses are those uses having certain special or unique characteristics which require a careful review of their location, design, configuration and impacts to determine the desirability of permitting their establishment on any given site.

(B) The Board of Adjustment of the city may, by special permit and subject to such protective restrictions as are deemed necessary and, after public hearing, authorize the locations, extensions or structural alteration of any of the following buildings or uses in any district from which they are prohibited or limited by this chapter.
(Ord. 14871, passed 4-12-2010)

§ 156.566 HEARINGS REQUIRED.

Before issuance of a permit for any special use, the Plan and Zoning Commission shall review the proposal and make a recommendation to the Board of Adjustment. The Board of Adjustment shall hold a public hearing when deciding upon a request. Notice of the time and place of the public hearing provided for herein shall be published once in a newspaper of general circulation in the city at least ten days prior to the date fixed for such a hearing.
(Ord. 14871, passed 4-12-2010)

§ 156.567 STANDARDS FOR REVIEW.

In addition to the standards for review applicable to all requests under consideration by the Board of Adjustment, approval of a special use shall be granted only if the Board first determines: the special use applied for is provided in the zoning district within which the property is located; the proposed use and development will be in accordance with the intent and purpose of this chapter and the Comprehensive Plan; that the proposed use and development will not have a substantial adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility and service facilities and other factors affecting the public health, safety and welfare; that the proposed development or use will be located, designed, constructed and operated in such a manner that it will not interfere with the orderly use, development and improvement of surrounding property; that adequate measures have been or will be taken to assure adequate access designed to minimize traffic congestion and to assure adequate service by essential public services and facilities including utilities, storm water drainage and similar facilities.

(Ord. 14871, passed 4-12-2010)

§ 156.568 PROTECTIVE RESTRICTIONS.

The Board of Adjustment may place protective restrictions on any approval in order to assure that the purpose and intent of this chapter is fulfilled. Such protective restrictions include, but are not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational controls, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements.

(Ord. 14871, passed 4-12-2010)

§ 156.569 USE IN CONFLICT WITH THE COMPREHENSIVE GUIDE PLAN.

No building permit may be issued which will permit a building to be constructed in the existing or projected right-of-way of a street or at a site of a proposed public use if in conflict with the Comprehensive Guide Plan, as determined by the Plan and Zoning Commission.

(Ord. 14871, passed 4-12-2010)

§ 156.570 SPECIAL USES.

(A) *Antenna structures.*

(1) *Special use permit not required.* Any antenna that is attached to an existing antenna support structure, smoke stack, water tower or other tall structure, is permitted in all zoning districts. The height of the antenna shall not exceed the height of

the existing tall structure by more than 20 feet. If the antenna is to be mounted on an existing tall structure, a site plan shall not be required.

(2) *Special use permit required.* Antenna support structures and antennas for entities providing licensed or unlicensed communications services, including, but not limited to, cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that is either not mounted on existing tall structure or is more than 20 feet higher than the tall structure on which it is to be mounted shall not be permitted, except pursuant to the following conditions.

(a) An application must be completed and returned to the Zoning Officer accompanied by a current fee for a special use permit.

(b) The application at a minimum must contain the following information.

1. *Necessity.* The wireless communications company shall demonstrate, using technological evidence that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's system.

2. *Co-location effort.* If the applicant proposes to build an antenna support structure (as opposed to mounting the antenna on an existing tall structure), it shall demonstrate that it contacted the owners of tall structures within a one-quarter mile radius of the site proposed, asked for a permission to install the antenna on those tall structures and was denied for reasons other than failure to agree on compensation. The Board of Adjustment may deny the permit if it concludes that the applicant has not made a good faith effort to mount the antenna on an existing tall structure.

3. *Antenna height.* The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.

4. *Setbacks from base of antenna support structure.* The minimum distance between the base of the support structure or any guy anchors and any property line shall be the largest of the following:

a. Fifty percent of the antenna height;

b. The minimum setback in the underlying zoning district; and

c. Sixty feet.

5. *Antenna support structure safety.* The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, or radio frequency interference. All structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

6. *Fencing.* An opaque fence shall be installed around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure. The fence shall be a maximum of six feet in height and serve to screen the base of the structure and to improve security.

7. *Co-location.* In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communications companies, and local police, fire and ambulance companies.

8. *FCC license.* The applicant shall provide proof that it is licensed by the Federal Communications Commission.

9. *Required parking.* If the site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.

10. *Painting.* Antenna support structures should be painted in such a manner as to reduce the visual impact and create a harmonious appearance with its surroundings.

11. *Site plan.* A full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, fencing, buffering and access.

12. *Air safety.* Support structures 200 feet in height or taller, or those near airports, shall meet all Federal Aviation Administration requirements.

(c) The applicant must show that the proposed antenna support structure, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with the minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

(d) Antenna support structures in residential neighborhoods are strongly discouraged. The application for a permit in a residential neighborhood must prove that the area cannot be adequately served by a facility placed in a non-residential neighborhood for valid technical reasons.

(e) All antenna support structures and communications facilities at sites other than the A-1 and M Districts at a minimum shall be a monopole. All antennas shall be designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black. Existing non-monopole antenna support structures shall be allowed to continue. Additional antennas may be added to existing non-monopole structures provided that other requirements of this special use section are followed. If an existing non-monopole structure has been damaged by more than 50% of the fair market value prior to the damage, the replacement of the antenna shall conform to all requirements of this section including the monopole requirement.

(f) There shall be no change in the exterior appearance of the approved site, including any change in the profile of the antenna support structure, that is a departure from or addition to what was shown or represented in the application for the granted special use permit, without first obtaining a new special use permit for that site through the same process as for obtaining the initial special use permit, including the review and recommendation of the Planning and Zoning Commission.

(g) If an additional antenna is installed on an existing antenna support structure, engineering data and certification by a licensed professional engineer assuring that the installation is structurally sound within the standards of good engineering practice shall be provided to the city's Building Official.

(h) If a site, or any antenna support structure, is not used for a period of one year, it shall be the duty and obligation of the party then in possession and control of the site to have the unused antenna support structure and any other unused cell site apparatus completely dismantled and removed from the site. Once the antenna support structure is removed, it shall be reconstructed according to this special use section, including the monopole requirement.

(3) *Placement on city owned property.* The placement of antennas or antenna support structures on city-owned property must comply with the following minimum requirements:

(a) Approval by the City Council is required when placing antennas or towers on any piece of property owned by the city;

(b) The antenna or antenna support structure will not interfere with the purpose for which the city-owned property is intended;

(c) The antenna or antenna support structure will have no adverse impact on surrounding private property;

(d) The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to city property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The charge for the use of a city structure shall be negotiated by the City Council;

(e) The applicant will submit a letter of credit, performance bond or other security acceptable to the city to cover the cost of antenna or antenna support structure removal;

(f) The antennas or antenna support structure will not interfere with other intended uses of the property;

(g) Upon reasonable notice, the antennas or antenna support structures may be required to be removed at the user's expense;

(h) The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antenna or antenna support structure; and

(i) The applicant will cooperate with the city's objective to promote collocations and thus limit the number of separate antenna sites requested.

(B) *Wind turbines.*

(1) *Special use permit required.* Wind turbines and their support structures shall not be permitted unless pursuant to the following conditions.

(a) An application must be completed and returned to the Zoning Officer accompanied by a current fee for a special use permit.

(b) The application at a minimum must contain the following information:

1. *Location.* The location for the proposed wind turbine;
2. *Other turbines.* No other wind turbine shall be located within twice the distance of the height of the proposed structure, unless the turbines are

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on the same lot owned by the same entity, in which case no more than five turbines shall be located on the same lot. Development of more than two wind turbines on one lot must be on an industrial zone, regardless of lot size;

3. *Lot size.* No wind turbine shall be allowed on any lot, regardless of zoning district, containing less than three acres;

4. *Setbacks from base.* The minimum distance between the base and any property line shall be 110% of a wind turbine height. The minimum distance between the base and any utility or other overhead wires shall be 150% of the turbine height;

5. *Height.* Wind turbines on all lots shall maintain at least a 15-foot buffer between the bottom of any blade and the ground;

6. *Setbacks from buildings.* No primary building, regardless of owner, shall be within 110% of height of the turbine. No accessory building on an adjoining lot shall be within 110% of the height;

7. *Structure safety.*

a. The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed wind turbine is safe and the surrounding areas will not be negatively affected by "thrown" ice.

b. No utility ladder shall be lower than 15 feet off the ground

c. All lattice-style wind turbines shall be surrounded by a six-foot high fence with a locking gate and contain no openings greater than one inch wide.

d. Structure must be neutral in color.

8. *Noise.* No turbine shall not emit more noise than is commonly acceptable for the industry;

9. *Installation.* Installation shall be conducted in compliance with industry and state standards;

10. *Site plan.* A full site plan shall be required for all wind turbines, showing the proposed structure, all buildings, property lines and including four different photographs of the surrounding area from the proposed base; and

11. *Air safety.* Lighting shall be minimized and allowed only when complying with FAA or other federal or state safety regulations.

(2) *New wind turbines.* Any new wind turbine shall obtain a special use permit, regardless if a permit was obtained for a previous system in the same location.

(3) *Removal.* If a site, or any wind turbine, is not used for a period of one year or is in a state of disrepair as determined by the Zoning Administrator, it shall be the duty and obligation of the party then in possession and control of the site to have the unused structure completely dismantled and removed from the site.

(C) *Small wind energy systems.*

(1) *Special use permit required.* Small wind energy systems (SWES) and their support structures shall not be permitted unless pursuant to the following conditions.

(a) An application must be completed and returned to the Zoning Officer accompanied by a current fee for a special use permit.

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(b) The application at a minimum must contain the following information:

1. *Location.* The location for the proposed SWES. Any SWES shall only be mounted on the rear-yard side of a structure and have a height of no more than 20 feet beyond to top of the support structure. Only one SWES shall be allowed per lot, regardless of zoning or use;
2. *Other turbines.* No SWES shall be located less than 50 feet from any other SWES.
3. *Lot size.* No SWES shall be allowed on any residential lot containing less than 5,000 square feet.
4. *Setbacks from base.* Any SWES shall not extend over the side roof of the support structure.
5. *Structure safety.*
 - a. The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed SWES is safe and the surrounding areas will not be negatively affected by "thrown" ice.
 - b. Structures must be neutral in color.
6. *Noise.* All SWES shall not emit more than 60 dB in residential zones and 75 dB in any other zone. This shall be proven through provided engineered specifications.
7. *Installation.* Installation shall be conducted by a licensed company.
8. *Site plan.* A full site plan shall be required for all SWES, showing the proposed structure, all buildings and property lines.

(2) *New SWES.* Any new SWES shall obtain a special use permit, regardless if a permit was obtained for a previous system in the same location.

(3) *Removal.* If a SWES is not used for a period of one year or is in a state of disrepair as determined by the Zoning Administrator, it shall be the duty and obligation of the party then in possession and control of the site to have the unused structure completely dismantled and removed from the site.

(D) *Temporary RV parks.*

(1) *Intent.* The purpose of a temporary RV park is to provide adequate housing options for traveling, non-permanent, populations working on or related to, large-scale construction projects. The approval of a temporary RV park shall not constitute permanent approval of housing quarters in the area, nor shall it be the basis for consideration of relaxing the requirements for permanent RV parks. Permanent RV housing requirements are adequately addressed in §§ 156.160 through 156.169 of this chapter.

(2) *Special use permit required.* Temporary RV parks shall not be permitted unless an application is completed and returned to the Zoning Officer accompanied by a current fee for a special use permit. The application at a minimum must meet all following listed requirements for a temporary RV park.

(a) Parcels must be zoned industrial and not have any existing residential uses on the property.

(b) Parcels must have an area of at least five acres.

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(c) Parcels shall have a maintained landscaped buffer of 15 feet along all adjoining property and 50 feet along any public street frontage.

(d) Parcels must contain an interior access way.

1. The minimum width of the access way shall be an unobstructed 20 feet.

2. Access ways shall connect to a public street.

3. Access ways shall be paved with concrete or asphalt with a depth of at least ten inches or be six inches of Class A granular surfacing material subject to the following requirements.

a. Access roads shall be designed, shown through an engineered diagram and maintained to support the imposed loads of fire apparatuses so as to provide all-weather driving capabilities (75,000 pounds).

b. Existing roads shall be approved if they meet the above requirement, on the condition that accurate documentation is provided.

4. Approaches shall be concrete from at least the street to the edge of the 50-foot setback.

5. Access ways shall be connected or provide adequate turnaround space in accordance with current subdivision regulations.

(e) Parcels must be broken down into individual lots, one per RV.

1. Each lot shall contain at a minimum 1,500 square feet.

2. All lots shall have frontage on an interior access way.

3. All lots shall be numbered in a non-repeating, consecutive sequence in accordance with the current Fire Code.

4. Each RV or structure associated with the RV shall be at a minimum of 20 feet from any other RV.

5. The parking area on lots shall be paved with concrete or asphalt or be covered with gravel. Gravel shall be maintained to be free of weeds or grass.

6. Gravel shall have a minimum of three inches' thickness of three-fourths Class A or Class C crushed stone.

7. No more than 75% of each lot shall be paved or covered with gravel.

(f) Owner shall provide adequate water and sewer infrastructure to each lot.

1. Each lot shall have running water and sanitary sewer connections.

2. Freeze-resistant water lines shall connect to existing city water and sewer systems from a central metering system.

3. Fire hydrants shall be provided as in the Fire Code.

4. Sewers must meet current rules and regulations.

5. Owner shall provide adequate electricity to each lot from a central metering system.

(3) *Validity.* If approved, the special use permit shall be valid for a maximum of five consecutive years. After five years, the applicant must reapply with the

Zoning Administrator for an additional two years. The additional application shall be reviewed by staff for either approval or denial.

(4) *Project completion.* After completion of the construction project, each temporary RV park shall have the infrastructure removed, disconnected from the main utility lines or be used for industrial development within one year, with documentation.

(E) *Halfway houses for ex-offenders.*

(1) *Intent.*

(a) Halfway houses, or rehabilitation centers for ex-offenders, raise the concerns of the community in several areas, including safety.

(b) Because of the unique circumstances involving these uses, special consideration shall be required.

(2) *Special use permit required.* No halfway house or ex-offender rehabilitation center shall be constructed or enlarged without first obtaining a special use permit. The application must meet the following requirements for a halfway house.

(a) No halfway house shall be located within 750 feet of any residential property, church, school or park. This shall be measured from the property line.

(b) The surrounding neighborhood shall not be adversely affected due to the operation of such facilities, including, but not limited to, increased vehicle and/or pedestrian traffic.

(Ord. 14871, passed 4-12-2010)

PLANNED UNIT DEVELOPMENT

§ 156.585 DEFINITIONS.

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

CONCEPT PLAN. A preliminary drawing of the proposal identifying specific uses, population densities, the developments relationship with surrounding uses, building intensities, proposed circulation patterns, parks, school sites and other land uses.

MASTER PLAN. A schematic plan for a unified, coordinated development of a tract of contiguous land which is designated in an integrated and coordinated basis showing trees, water lines and appurtenances, sanitary sewers and appurtenances, storm water management facilities and appurtenances, lot boundaries, building locations, parking and loading areas, access drives, landscaping, existing and proposed grades, buffers and other information as required to properly depict and communicate the proposed utilization and improvement of the property.

PLANNED UNIT DEVELOPMENT.

(1) A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

(2) The development plans shall include, but not be limited to, land use, streets and circulation ways, utilities, population densities, buildings, open spaces and other site features.

(Ord. 14871, passed 4-12-2010)

§ 156.586 PURPOSE.

The purpose of the planned unit development (PUD) is for more efficient use of land and public services in two basic situations:

(A) *Vacant land.* Areas of not less than two acres where strict regulation may restrict the full achievement of the Comprehensive Guide Plan; or

(B) *Built-up and aged areas.* Areas of not less than 30,000 square feet of minimum lot needing rehabilitation and redevelopment, including such areas which may be deficient in public facilities and services, where such necessary redevelopment cannot be expected to take place in strict and established areas of the city.

(Ord. 14871, passed 4-12-2010)

§ 156.587 APPLICATION.

(A) *Ownership.*

(1) A tract shall be under such control that each owner is bound by the conditions and regulations which shall be effective within the PUD and which will result in recordable easements, covenants and other provisions.

(2) Each PUD shall be numbered in sequence.

(B) *Permitted uses.* A PUD may include a mixture of such principal types of land use as residential, commercial, industrial and institutional, and the extent of each use shall be determined by the type of PUD proposed and as hereinafter provided. Uses shall not result in undue adverse effect on the surrounding area and shall be consistent with the intent of this subchapter and the concept of the proposed PUD.

(C) *Decision criteria.* The following objectives are sought:

(1) A maximum choice of living environments by allowing a variety of housing and building types, by permitting an increased density per acre and by reducing dimensions, yards and building setbacks;

(2) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;

(3) A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns;

(4) A more efficient use of land than is generally achieved through conventional development;

(5) A development pattern in harmony with land use density, transportation facilities and community facilities objectives of the Comprehensive Guide Plan; and

(6) Non-residential developments planned as groups, in park-like surroundings with common ingress points and common parking; with screened loading, storage and parking areas; with buffer areas to adjacent lands which are fully landscaped and with areas set aside for future expansion.
(Ord. 14871, passed 4-12-2010)

§ 156.588 PUD PROCEDURES.

(A) *Concept plan.*

(1) The applicant shall submit a written statement and sketch to the Zoning Administrator for review. An informal meeting shall be held with the developer and all applicable city staff and the Development Review Committee for discussion prior to the submission of a PUD application. The concept plan shall relate to the decision criteria listed above, identify specific land uses, population densities and building intensities. The plan shall show a compatible relationship with surrounding uses, proposed circulation patterns (pedestrian and vehicular), proposed parks, school sites and other open space. The applicant shall submit the tentative development schedule and tentative written consent of all property owners within the proposed PUD District. If needed, recommendations for changes and additions shall be made prior to presentation to the Plan and Zoning Commission.

(2) After review by staff, the item shall be placed on the Plan and Zoning Commission agenda for review. After the initial plan and Zoning Commission review, this item shall be placed on the plan and zoning agenda for a public hearing for the proposal. The Plan and Zoning Commission shall recommend to the City Council for approval or denial of the PUD within 30 days of the public hearing.

(3) The concept plan establishes a PUD; rezoning land into a PUD requires ordinance changes and considerations including a public hearing.

(4) The fee for the concept plan shall be set by resolution.

(B) *Preliminary master plan.*

(1) *Initiation.* After receiving approval of the concept plan, and approval by the City Council to proceed, the applicant shall submit to the Zoning Administrator a preliminary master plan for the entire proposed PUD showing:

(a) Area devoted to each specific land use (i.e., single-family, multi-family, commercial and the like);

(b) Area devoted to public open space;

(c) Area devoted to common open space;

(d) Area devoted to primary and accessory buildings;

(e) Area devoted to:

1. Streets and alleys;

2. Bikeways; and

3. Walkways.

(f) Area devoted to and number of off-street parking spaces;

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- (g) Area devoted to other remaining uses;
 - (h) Engineering/architectural drawings shall be provided depicting the following information:
 - 1. Adjacent land uses and zoning classifications within 300 feet of the project;
 - 2. Existing streets, rights-of-way, property lines, easements and the location of water, wastewater and storm water intakes and lines within 300 feet of the project;
 - 3. Contours of the development and all land within 300 feet of the project;
 - 4. Location and extent of water bodies, wetlands and streams and flood hazard areas on the project and within 300 feet;
 - 5. Location of existing drainage patterns;
 - 6. Location and extent of tree cover;
 - 7. Property lines and dimensions of the property;
 - 8. Precise location of the buildings on the properties;
 - 9. Precise location of driveways, entrances, loading spaces, parking spaces, accessory buildings and the like on the property;
 - 10. Location of all public and common open space;
 - 11. Landscaping plan depicting sidewalks, tree plantings, entrances, fences and other factors;
 - 12. General grading and drainage plan and a description of how surface water on the project will be managed on site. Both existing and new contours shall be shown;
 - 13. Utility plans;
 - 14. Street lighting plans;
 - 15. Preliminary building architectural plans indicating use, floor area, elevations and exterior wall finishes of each proposed building type;
 - 16. Soil erosion control plan;
 - 17. A description of how the project relates to the land development plan (i.e., transportation system, zoning patterns, drainage system and the like) of adjacent vacant land;
 - 18. Artistic renderings of proposed buildings, neighborhoods, streetscapes and other visual depiction of the proposed project; and
 - 19. Any other elements requested by city staff, the Plan and Zoning Commission and the City Council:
 - a. A description of any restrictive covenants which are to be recorded; and
 - b. A proposal for the management of buildings and open space.
- (2) *Fee.* The fee for a preliminary master plan shall be set by resolution.
- (3) *Zoning Administrator.* Within 31 days after submission of the preliminary master plan, the Zoning Administrator shall make his or her recommendations to the Plan and Zoning Commission, specifying in what respects the

preliminary master plan would or would not be in the public interest, including, but not limited to, the following:

- (a) The extent to which the plan departs from zoning and subdivision regulations;
- (b) The provisions for adequate public services, control over vehicular traffic and the amenities of light, air and recreation, security and privacy;
- (c) The nature and adequacy of open space, the reliability of the proposals for maintenance and conservation of the common open space;
- (d) The relationship of the PUD to the neighborhood;
- (e) If the plan is to be executed in increments, the sufficiency of the terms and conditions proposed to protect and maintain the performance of the plan;
- (f) In built-up areas, the suitability of the proposed structures in relation to existing structures remaining and anticipated future development of the area; and
- (g) Conformity with all applicable provisions of this chapter and of the Comprehensive Plan.

(4) *Preliminary approval of the master plan.* Within 31 days after receiving staff reports concerning the preliminary master plan, the Commission shall hold a meeting on the application. The Plan and Zoning Commission may approve or deny the preliminary master plan and associated development rules, regulations and guidelines as submitted, or may require the developer to modify, alter, adjust or amend the preliminary master plan and associated development rules, regulations and guidelines, as the Plan and Zoning Commission deems necessary, in order to preserve the harmonious intent of this chapter and the Comprehensive Plan of the city.

(5) *Conformance with the Comprehensive Plan.* Before any plan is approved, said Commission shall determine if such proposal is in compliance with the Comprehensive Plan or if such proposal represents a substantial deviation from the Comprehensive Plan.

(C) *Final approval of master plan.* Upon approval of the preliminary master plan by the Plan and Zoning Commission, the applicant shall submit to the Zoning Administrator final master plans with required modifications. The Plan and Zoning Commission shall hold a meeting for the approval for the final plat of the master plan. If the final master plan and plats are not submitted within six months of the Council approval of the concept plan, all approvals shall automatically become void. In order to proceed, the concept plan shall be resubmitted to the Plan and Zoning Commission for the approval process.

(D) *City Council approval.* After a complete review by the Plan and Zoning Commission, the Zoning Administrator shall submit the final master plan with a written recommendation and report giving reasons as to recommendations made by the Plan and Zoning Commission within 31 days to the City Council for review and a final determination. The Council shall receive the recommendations of the Commission, shall consider the final master plan and plats, and shall approve the plans and plats, if they are in substantial agreement with the concept plan.

(E) *Effective period of final master plan approval.* The approval of any PUD under the terms of this subchapter shall be effective for one year from the date of approval by the City Council. Building permits shall be issued within the one-year

approval period. The approved plans shall become null and void if no building permits are not issued within the specified period of time.

(F) *Fee.* The fee for the final master plan shall be set by resolution.
(Ord. 14871, passed 4-12-2010)

§ 156.589 CONCLUDING REQUIREMENTS.

(A) *Effect of approval.* The final master plan and plats as approved together with the restrictions imposed, including the rezoning as designated as a result of the approval process, shall constitute the zoning and subdivision control for the district; provided that, general regulations which were applicable to the land involved prior to approval of the PUD and which are consistent with the PUD shall continue to be applicable.

(B) *Building permit restricted.* No building permit shall be issued for construction within the approved PUD unless and until the Zoning Administrator certifies that it conforms to the provisions of the master plan and other applicable zoning requirements.

(C) *Recording of the master plan and associated rules, regulations and guidelines.* The ordinance providing for the rezoning of property to the PUD Zoning District and the associated concept plan, master plan, rules, regulations and guidelines as approved by the City Council shall be recorded at the office of the County Recorder and shall be binding on the property owners, their heirs, successors or assigns.

(D) *Modifications.* Any proposed modifications in the approved PUD shall first be reviewed by the Plan and Zoning Commission. Said proposed modification along with a report from the Commission shall then be forwarded to the City Council with appropriate recommendations. The City Council shall then take such appropriate action on the proposed modification and its decision shall be final. No modification may be considered that is more than a 10% increase in the density or change of uses on the site without a public hearing as required of a rezoning procedure. A public hearing may be required before the City Council on any modification, if determined by the City Council. The fee for each change to a preliminary master plan shall be set by resolution.

(E) *Existing planned unit developments.* Any additional phases to PUDs which were approved prior to the adoption of this chapter shall conform with the original concept plan submitted. Each phase shall require preliminary and final master plan approval specific to each new phase as described in this section.
(Ord. 14871, passed 4-12-2010)

TEMPORARY USE REGULATIONS

§ 156.600 PURPOSE AND INTENT.

(A) These regulations are intended to establish criteria and standards under which limited duration temporary uses may be conducted in commercial districts. These regulations apply to temporary structures used in conjunction with a temporary use.

(B) The intent is to prevent the creation of any nuisance to the occupants of adjacent buildings, premises or property and the general public.
(Ord. 14871, passed 4-12-2010)

§ 156.601 SHORT-TERM AND LONG-TERM TEMPORARY USES.

A temporary use may be defined as short-term or long-term. A **SHORT-TERM USE** shall be defined as a use with a maximum duration of seven consecutive days or less. A **LONG-TERM USE** shall be defined as a use with duration of more than seven consecutive days or more than seven days in within any month. A temporary use permit will only be required for a long-term temporary use.

(Ord. 14871, passed 4-12-2010)

§ 156.602 APPLICATION AND PERMIT PROCESSING.

A temporary use permit shall be required for all temporary structures used in conjunction with a long-term temporary use. A temporary use permit must be issued prior to the commencement of any temporary use. The Zoning Administrator may, from time to time, specify the form of the temporary use permit application. Applications for temporary use permits shall be secured from the Zoning Administrator in the manner prescribed by this chapter, who shall cause the application to be directed to all concerned city departments. Affected departments shall comment on the application. Temporary uses may be subject to additional permits or inspections as required by any applicable law or regulation.

(Ord. 14871, passed 4-12-2010)

§ 156.603 EVALUATION OF TEMPORARY USE PERMIT APPLICATION.

The Zoning Administrator shall only consider an application for a temporary use permit if all of the following criteria can be met.

(A) The temporary use is consistent with all Comprehensive Plan, the code of ordinances of the city, the Zoning Ordinance of 2010, as amended, and city and state regulations.

(B) The temporary use complies with all applicable codes.

(C) The temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means or odor, noise, dust or other nuisance.

(D) Temporary uses shall only be allowed in commercial or industrial districts.

(E) The additional parking required by the temporary use will be provided on-site, if applicable, or adequate street parking is available in the immediate area.

(F) Increased traffic caused by the temporary use will not adversely affect the surrounding neighborhood or city at large.

(G) The temporary use shall be limited to parking lots of already established businesses. A temporary use is not allowed on an empty lot.

(H) All sites shall be completely cleaned of debris and temporary structures including, but not limited to, trash receptacles, signs, stands, poles, electric wiring or any other fixtures and appurtenances or equipment connected therewith, within five days after the termination of the temporary use.

(I) The property owner shall be responsible to assure adequate cleanup of uses involving the construction or placement of temporary structures.

(J) Permanent sanitary facilities shall be made available to all employees and attendants of the use during its operational hours.

(K) There shall be no discharge of wastewater or hazardous materials. The applicant must indicate how any such discharge will be contained and disposed of.

(L) No area of public right-of-way may be used without obtaining approval from the Zoning Administrator, Police Chief, Fire Chief and Director of Public Works.

(M) A signed lease agreement between the property owner and the applicant, for the property on which the activity is to take place.

(N) Proof of insurance, the owner or operator must provide a certificate of insurance as evidence of comprehensive general liability insurance by an insurance company licensed to do business in the state.

(O) All temporary structures shall conform to the zoning setback requirements unless stated otherwise in the chapter.

(P) Multiple concurrent temporary uses on the same zoning lot shall be prohibited.

(Q) No detached or freestanding sign shall be permitted. The maximum amount allowed for a wall sign shall be based upon one square foot of sign for each foot of length on the longest side of the structure. All other provisions of the sign code shall apply.

(R) Electrical service shall be provided as required by the City Electrician.

(S) Long-term temporary uses shall only be allowed for a maximum of 180 days per calendar year.

(Ord. 14871, passed 4-12-2010)

§ 156.604 USES PERMITTED WITH A TEMPORARY USE PERMIT.

Any temporary structure used in conjunction with a temporary use must apply for a temporary use permit. Temporary uses include, but are not limited to, the retail sales of goods and services.

(Ord. 14871, passed 4-12-2010)

§ 156.605 CONDITIONS OF APPROVAL.

The Zoning Administrator may impose such conditions on a temporary use permit as is necessary to meet the purpose of this chapter and protect the public health, safety and welfare and adjacent uses. Conditions which may be imposed may include, but are not limited to:

- (A) Setback and open space requirements;
- (B) Parking;
- (C) Fences, walls or other screening;
- (D) Signage;
- (E) Vehicular and pedestrian ingress and egress;
- (F) Property maintenance during course of the activity;
- (G) Control of illumination, noise, odor, vibration or other nuisances;
- (H) Hours of operations; and
- (I) Other conditions as determined by the Zoning Administrator.

(Ord. 14871, passed 4-12-2010)

§ 156.606 FEES.

(A) The application fee for a temporary use permit shall be set by resolution. In addition, all grounds shall be cleaned after the temporary use is complete.

(B) This shall include proper disposal of all garbage and debris and replacement of any moved structure or fence.

(C) Improper cleanup may be grounds for non-issuance of further temporary use permits.

(Ord. 14871, passed 4-12-2010)

BOARD OF ADJUSTMENT

§ 156.620 CREATION AND MEMBERSHIP.

A Board of Adjustment is hereby created. The word **BOARD**, when used in this subchapter, shall mean the Board of Adjustment. The Board shall consist of five members serving without compensation, appointed by the Mayor, subject to the approval of the Council for a term of five years; excepting that, when the Board shall first be created, one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years and one for a term of one year. Not more than two members of the Board shall be members of the Plan and Zoning Commission. Any vacancy shall be filled by appointment by the City Council for the unexpired portion of the term. Should any member be absent from the city or become incapacitated, or disqualified, the Council shall appoint a substitute to serve as a member of the Board with the same powers and authority as the regular member of the Board until the regular member has returned or is able to serve on the Board.

(Ord. 14871, passed 4-12-2010)

§ 156.621 MEETINGS AND GENERAL PROCEDURES.

(A) Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. Such Chair or, in his or her absence, the acting Chair may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

(B) (1) The Board 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 immediately filed in the office of the Board and shall be a public record.

(2) A city representative shall serve as Secretary of the Board and keep its records.

(C) The Board shall have power to call on any municipal department or officer for assistance in the performance of its duties, and it shall be the duty of any such department to render such assistance as may reasonably be required.

(D) The Board shall adopt, from time to time, such rules and regulations as it may deem necessary to carry into effect the power and authority granted it by the provisions of this chapter or any state law.

(E) The concurring vote of three members of the Board shall be necessary to decide any appeal, exception or variation upon which the Board is authorized by this chapter to render a decision.

(F) The Board shall render its decisions without unreasonable delay.
(Ord. 14871, passed 4-12-2010)

§ 156.622 JURISDICTION.

The Board shall have the following powers and authority:

(A) *Appeals.* To hear and decide an appeal where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter;

(B) *Exceptions.* To grant an exception in the following instances:

(1) In the extension of a district where the boundary line of a district divides a lot or tract held in a single ownership on the effective date of this chapter;

(2) In the determination that the actual street layout on the ground varies from the street layout as shown on the District Map;

(3) In the erection and use of a building or the use of premises for railroads or public utility purposes;

(4) In the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God or a public enemy, to the extent of more than 50% of its fair market value, where the Board finds some compelling necessity requiring a continuance of the non-conforming use and that the primary purpose in continuing the non-conforming use is not to continue a monopoly;

(5) In the waiving or reduction of the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provisions of the parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience;

(6) In the permitting of land within 300 feet of a multiple dwelling to be improved for the parking spaces required in connection with a multiple dwelling;

(7) In the determination of whether an industry should be permitted within the M1 Light Industrial District or the M2 Heavy Industrial District because of the methods by which it would be operated and because of its effect upon uses in surrounding districts;

(8) In the extension or expansion of a non-conforming use on the same or adjoining property to provide parking for employees and for handicapped persons; and

(9) After application by a junk yard owner and review of the request, the Board of Adjustment may grant an exception to the city's junk yard fence requirement. The Board shall consider the criteria set forth in § 117.021(A) of this code and shall have the power at any time after granting such an exception, after notice and hearing, to revoke the exception and require the junk yard owner to construct a fence in accordance with the requirements set forth herein. The Board of Adjustment shall have no jurisdiction to grant an exception unless all three of the criteria set forth herein.

(C) *Variations.* To grant a variation in the following instances.

(1) In the yard requirements of any district where there are unusual or practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions provided, such variations will not seriously affect any adjoining property or the general welfare.

(2) In the determination that a strict application of the terms of this chapter relating to the construction, or alterations of building or other structures, or use of land will impose upon the property owner unusual and practical difficulties or particular hardship.

(3) The following are variance review guidelines.

(a) A variance is not the appropriate remedy for a general condition.

(b) Self-inflicted hardships are not grounds for a variance.

(c) Personal hardships are not grounds for a variance. The hardship must relate to the physical character of the property.

(d) Economic conditions are not grounds for a variance (solely).

(e) Hardships must be severe. A variation from the strict application of the terms of this chapter shall be in harmony with its general purpose and intent, and the Board shall be satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship.

(f) If granted, variance must not adversely affect the neighborhood.

(g) All applicants must be treated fairly.

(h) Substantial justice will be done with the grant of the variance.

(4) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(D) *Home occupation special use permits.* The Board shall approve all home occupation special use applications. Refer to § 156.025 of this chapter for requirements.

(E) *Special uses.* To grant a special use permit for uses listed in §§ 156.550 through 156.552 of this chapter.

(F) *Appeals, proposed exceptions.* In considering all appeals and all proposed exceptions or variations to this chapter, the Board shall, before making any exceptions or variations from the ordinance in a specific case, first determine:

(1) It will not impair an adequate supply of light and air to adjacent property;

(2) It will not unreasonably increase the congestion in public streets or increase the danger of fire or endanger the public safety;

(3) It will not unreasonably diminish or impair established property values within the surrounding area; or

(4) It will not in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

(G) *Reserve of power.* Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this chapter or the District Map, such power and authority being reserved to the City Council in the manner hereinafter provided in the city code of ordinances.
(Ord. 14871, passed 4-12-2010)

§ 156.623 APPEALS.

(A) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the City Clerk a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Any person may appear and testify at the hearing, either in person or by his or her agent or attorney.

(B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whose decision or action the appeal is taken certifies to the Board after the notice of appeal shall have been filed that by reason of acts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.
(Ord. 14871, passed 4-12-2010)

§ 156.624 NOTICE AND FEE.

(A) The Board shall make no findings, except in a specific case and after a public hearing conducted by the Board. The Board shall select a reasonable time and place for the hearing of the appeal and shall give due notice thereof to the parties. The notice of the time and place of such public hearing shall be published in a county publication of general circulation in the city at least ten days previous to the hearing. Such notice shall contain the address or location of the property for which the variation or other ruling by the Board is sought, as well as a brief description of the nature of the appeal.

(B) If a special use permit is requested a fee, set by resolution, shall be paid to the City Clerk at the time of the notice of appeal is filed. If a variance is requested, a fee, set by resolution, shall be paid to the City Clerk at the time the notice of appeal is filed. Fees shall be credited to the General Government Fund of the city.
(Ord. 14871, passed 4-12-2010)

§ 156.625 RELIEF.

Any person or persons, jointly or severally aggrieved by any decision of the Board or any taxpayer, or any officer, department, board or bureau of the city shall have recourse to such relief as is provided by statute.
(Ord. 14871, passed 4-12-2010)

§ 156.626 SMALL LOT EXCEPTION.

Regardless of any provision to the contrary, set out above, the city's Board of Adjustment shall have no jurisdiction to grant either an exception or variance concerning any small lot in the city.
(Ord. 14871, passed 4-12-2010)

§ 156.999 PENALTY.

(A) (1) Any person, firm or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined a fee, set by resolution, for each offense. After a written notice of such violation, each day that violation is permitted to exist beyond the expiration of the time designated on said notice, shall constitute a separate offense.

(2) In case 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 Zoning Administrator, in addition to other remedies, may institute any proper actions or proceedings in the name of the city, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violations, to prevent

the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

(B) Violations of the provisions of §§ 156.395 through 156.415 of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of special uses or variances) shall constitute a misdemeanor. A person who violates §§ 156.395 through 156.415 of this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined an amount set by resolution or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(C) The Zoning Administrator is authorized to issue a municipal infraction or civil penalty as permitted in this code of ordinances or cause removal of such sign. The owner of the sign and/or sign structure or the owner of the property upon which the sign is located shall pay any expense incident to such removal. Failure to pay said costs may result in the assessment of such costs against the property.

(Ord. 14871, passed 4-12-2010)

TABLE OF SPECIAL ORDINANCES

Table

- I. FRANCHISES
- II. ZONING MAP CHANGES

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
14806	4-9-2007	Granting Interstate Power & Light Company the right and franchise to acquire, construct, erect, maintain and operate a natural gas distribution system in the city and the right to lay down, operate and maintain the necessary pipes, mains and other conductors and appliances in the city
14807	4-9-2007	Granting Interstate Power & Light Company the right and franchise to acquire, construct, erect, maintain and operate in the city, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power in the city

TABLE II: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
14979	11-26-2018	Rezoning approximately 34.7 acres including Parcel 8318-11-426-005 and Parcel 8318-11-426-007 from R-2 Low Density Residential to TN Traditional Neighborhood
14981	3-25-2019	Rezoning properties at 108, 110, 112 and 114 N. 3rd Avenue from R-4 Medium Density

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
		Residential to TN Traditional Neighborhood

PARALLEL REFERENCES

References to Iowa Code Annotated

References to 2013 Code

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17A.19	94.063
Ch. 21	54.010
Ch. 35C	31.045
74A.4	52.005, 52.007
Ch. 80D	33.035
80D.7	33.041
Ch. 89A	152.005
Ch. 103	154.036
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321.259	Ch. 76, Sch. VI
321.260	Ch. 76, Sch. VI
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17-128	117.021
17-129	117.022
17-130	117.023

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<i>2013 Code</i>	<i>2019 Code</i>
17-136	117.035
17-137	117.036
17-138	117.037
17-139	117.038
17-140	117.039
17-141	117.040
17-142	117.041
17-143	117.042
17-144	117.043
17-145	117.044
17-146	117.045
17-147	117.045
17-148	117.046
17-149	117.047
17-154	118.001
17-155	118.002
17-155	118.999
17-155.1	118.003
17-156	118.004
17-156.1	118.005
17-156.2	118.006
17-157	118.007
17-157.1	118.008
17-157.2	118.009
17-157.3	118.010
17-158	118.011
17-159	118.012
17-160	118.013
17-160.1	118.013
17-161	118.999
17-193	119.001
17-194	119.002
17-195	119.003
17-196	119.004
17-197	119.005
17-198	119.006
17-199	119.007

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<i>2013 Code</i>	<i>2019 Code</i>
17-200	119.008
17-201	119.009
17-202	119.010
17-203	119.011
17-204	119.012
17-205	119.013
17-206	119.014
17-207	119.015
17-219	33.020
17-220	33.020
17-221	33.022
17-222	33.023
17-223	33.024
17-224	33.025
17-225	33.026
17-245	33.999
19-1	73.001
19-2	73.002
20-1	70.001
20-2	70.002
20-3	70.003
20-4	70.004
20-5	70.005
20-6	70.006
20-6.1	70.006, 70.999
20-7	70.007
20-8	70.008
20-9	70.009
20-10	70.010
20-12	70.011
20-13	70.012
20-14	70.013
20-26	70.025
20-27	70.026
20-28	70.027
20-29	70.028
20-30	70.029

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<i>2013 Code</i>	<i>2019 Code</i>
20-36	70.040
20-37	70.041
20-38	Ch. 76, Sch. IV
20-39	Ch. 76, Sch. IV
20-40	Ch. 76, Sch. V
20-41	Ch. 76, Sch. V
20-42	Ch. 76, Sch. VI
20-43	Ch. 76, Sch. VI
20-44	Ch. 76, Sch. VI
20-45	Ch. 76, Sch. VI
20-46	Ch. 76, Sch. VI
20-46.1	Ch. 76, Sch. VII
20-46.2	Ch. 76, Sch. VII
20-46.3	Ch. 76, Sch. VII
20-46.4	Ch. 76, Sch. VII
20-46.5	Ch. 76, Sch. VII
20-46.6	Ch. 76, Sch. VII
20-46.7	Ch. 76, Sch. VII
20-46.8	Ch. 76, Sch. VII
20-46.9	Ch. 76, Sch. VII
20-47	71.001
20-48	71.002
20-49	71.003
20-51	71.004
20-52	71.005
20-53	71.006
20-54	71.007
20-55	71.008
20-56	71.009
20-57	71.010
20-58	71.011
20-59	71.012
20-60	71.013, 71.999
20-61	71.014
20-76	71.025
20-77	71.026
20-78	Ch. 76, Sch. VIII

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<i>2013 Code</i>	<i>2019 Code</i>
20-79	Ch. 76, Sch. VIII
20-80	71.027
20-81	71.028
20-82	71.029
20-91	71.040
20-92	71.041
20-93	71.042
20-94	71.043
20-95	71.044
20-96	71.045
20-97	71.045
20-98	71.046
20-111	71.060
20-112	71.061
20-113	71.062
20-114	71.063
20-115	71.064
20-116	71.065
20-151	75.001
20-152	75.002
20-153	75.003
20-154	75.004
20-155	75.005
20-156	75.006
20-157	75.007
20-158	75.008
20-159	72.001
20-160	72.002
20-160.1	72.002
20-160.2	72.002
20-160.3	72.002
20-160.4	72.002
20-160.5	72.002
20-160.6	Ch. 77, Sch. I
20-160.7	72.002
20-160.8	72.002
20-160.9	72.002

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<i>2013 Code</i>	<i>2019 Code</i>
20-160.10	72.002
20-161	Ch. 77, Sch. II
20-161.1	Ch. 77, Sch. II
20-161.2	Ch. 77, Sch. II
20-162	Ch. 77, Sch. III
20-162.1	Ch. 77, Sch. III
20-162.2	Ch. 77, Sch. III
20-162.3	Ch. 77, Sch. III
20-163	Ch. 77, Sch. IV
20-163.1	Ch. 77, Sch. IV
20-163.2	Ch. 77, Sch. IV
20-164	Ch. 77, Sch. V
20-164.1	Ch. 77, Sch. V
20-164.2	Ch. 77, Sch. V
20-164.3	Ch. 77, Sch. V
20-164.4	Ch. 77, Sch. V
20-164.5	Ch. 77, Sch. V
20-165	Ch. 77, Sch. VI
20-165.5	Ch. 77, Sch. VI
20-166	Ch. 77, Sch. VI
20-167	Ch. 77, Sch. VI
20-167.1	Ch. 77, Sch. VI
20-167.2	Ch. 77, Sch. VI
20-168	72.999
20-169	Ch. 77, Sch. VII
20-169.1	Ch. 77, Sch. VII
20-169.2	Ch. 77, Sch. VII
20-169.3	Ch. 77, Sch. VII
20-169.4	Ch. 77, Sch. VII
20-170	72.003, 72.999
20-171	72.004
20-172	72.005
20-173	72.006
20-174	72.007
20-175	72.008
20-176	72.009
20-177	72.009

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<i>2013 Code</i>	<i>2019 Code</i>
20-178	72.011
20-179	72.012
20-180	72.013
20-181	72.014
20-182	72.014
20-183	72.016
20-184	Ch. 77, Sch. VIII
20-184.1	Ch. 77, Sch. VIII
20-184.2	Ch. 77, Sch. VIII
20-184.3	Ch. 77, Sch. VIII
20-184.3.5	Ch. 77, Sch. VIII
20-184.3.6	Ch. 77, Sch. VIII
20-184.4	Ch. 77, Sch. VIII
20-185	Ch. 77, Sch. IX
20-185.1	Ch. 77, Sch. IX
20-185.2	Ch. 77, Sch. IX
20-187	72.070
20-188	72.071
20-189	72.072
20-190	72.073
20-191	72.074
20-201	72.055
20-202	72.055
20-203	72.055
20-204	72.055
20-205	72.056
20-206	72.057
20-221	Ch. 77, Sch. X
20-222	Ch. 77, Sch. X
20-223	Ch. 77, Sch. X
20-224	Ch. 77, Sch. X
20-230	72.017
20-231	72.017
20-233	72.017
20-234	72.018
20-234	72.999
20-241	72.035

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<i>2013 Code</i>	<i>2019 Code</i>
20-242	72.036
20-243	72.037
20-244	72.038
20-245	72.039
20-246	72.039
20-248	72.040
20-249	72.041
20-250	72.042
20-251	72.043
20-252	72.999
20-281	73.015
20-283	73.016
20-286	73.017
20-289	73.018
20-290	73.019
20-346	73.040
20-347	73.041
20-348	73.042
20-349	73.043
20-350	73.044
20-352	73.045
20-353	73.045
20-354	73.047
20-358	73.048
20-359	73.049
20-360	73.049
20-361	73.051
20-363	73.052
20-364	73.053
20-365	73.054
20-366	73.054
20-367	73.054
20-368	73.055
20-386	71.080
20-387	71.081
20-388	71.082
20-389	71.083

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<i>2013 Code</i>	<i>2019 Code</i>
20-390	71.084
20-391	71.085
20-392	71.086
20-393	71.086
20-394	71.086
20-395	71.087
20-396	71.088
20-397	71.089
20-398	71.090
20-399	71.091
20-399	71.999
20-400	71.092
20-401	71.092
20-402	71.092
20-403	71.093, 71.999
21-1	130.001
21-1.1	130.002
21-2	130.003
21-3	130.004
21-4	130.005
21-4.1	130.006
21-5	130.007
21-8	131.001
21-9	130.008
21-10	130.030
21-11.1	130.030, 130.999
21-12	130.031
21-12.5	130.032, 130.999
21-13	130.009
21-14	131.002
21-15	133.001, 133.999
21-16	133.001
21-17	133.002
21-19	133.003
21-20	133.004
21-21	133.005
21-22	132.001

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<i>2013 Code</i>	<i>2019 Code</i>
21-25	132.002
21-27	130.045
21-30	130.046
21-31	130.047
21-31.1	130.048, 130.999
21-31.2	130.049
21-33	130.010
21-36	130.011
21-37	130.012, 130.999
21-37.1	130.012
21-38	130.013
21-39	130.013
21-40	130.050
21-45	131.003
21-47	130.014
21-48	130.015
21-49	131.004
21-51	131.005
21-52	130.016
21-52.1	130.017, 130.999
21-54	130.018, 130.999
21-58	130.019, 130.999
21-60	131.006
21-61	95.001
21-62	95.002
21-63	95.003
21-64	95.004, 95.999
21-65	95.005
21-66	95.006
21-67	95.006
21-68	95.006
21-69	95.007
21-70	95.008
21-71	95.009
21-72	95.009
21-73	95.999
21-74	95.010

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<i>2013 Code</i>	<i>2019 Code</i>
21-100	151.055
21-102	151.056
21-102	151.999
21-151	116.001
21.5-1	93.001
21.5-2	93.001
21.5-3	93.001
21.5-4	93.001
21.5-5	93.001
21.5-6	93.002
21.5-7	93.003
21.5-8	93.004
21.5-9	93.005
21.5-10	93.999
21.5-11	93.006
21.5-12	93.007
22-12	150.001
22-13	150.002
22-14	150.003
22-15	150.003
22-16	150.004
22-17	150.005
22-18	150.006
22-21	150.006
22-25	150.007
22-28	150.008
22-30	150.009
22-31	150.009
22-32	150.009
22-33	150.010
22-34	150.010
22-35	150.010
24-1	33.001
24-12	33.002
24-14	33.003
24-15	33.003
24-17	33.003

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<i>2013 Code</i>	<i>2019 Code</i>
24-19	33.004
24-21	33.005
24-22	33.006
24-25	33.007
24-61	33.035
24-62	33.036
24-63	33.037
24-64	33.038
24-65	33.039
24-66	33.039
24-67	33.041
24-68	33.042
24-69	33.043
25-16	74.001, 74.999
25-17	74.001
25-18	74.001
25-35	74.002
26-1	57.001
26-3	57.001
26-4	57.002
26-5	57.002
26-6	57.004
26-16	57.015
26-17	57.015
26-18	57.017
26-19	57.018
26-20	57.019
26-22	57.020
26-23	57.021
26-24	57.022
26-25	57.023
26-27	57.024
26-44	57.038
26-45	57.041
26-51	57.053
26-52	57.054
26-53	57.054

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<i>2013 Code</i>	<i>2019 Code</i>
26-54	57.054
26-55	57.055
26-55	57.999
26-67	151.070
26-68	151.071
26-69	151.072
26-70	151.073
26-71	151.074
26-72	151.075
26-73	151.076
26-74	151.076
26-75	151.077
26-76	151.078
26-77	151.079
26-87	Ch. 76, Sch. I
26-88	Ch. 76, Sch. I
26-89	Ch. 76, Sch. I
26-90	Ch. 76, Sch. I
26-91	Ch. 76, Sch. I
26-92	Ch. 76, Sch. I
26-93	Ch. 76, Sch. II
26-94	Ch. 76, Sch. II
26-95	Ch. 76, Sch. II
26-96	Ch. 76, Sch. II
26-97	Ch. 76, Sch. II
26-100	Ch. 76, Sch. III
26-101	Ch. 76, Sch. III
26-102	Ch. 76, Sch. III
26-103	Ch. 76, Sch. III
26.5-1	155.001
26.5-2	155.002
26.5-3	155.003
26.5-4	155.004
26.5-5	155.999
27-1	58.001
27-2	58.002
27-3	58.003

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<i>2013 Code</i>	<i>2019 Code</i>
27-15	58.015
27-16	58.016
27-17	58.017
27-18	58.018
27-19	58.019
27-20	58.020
27-21	58.021
27-22	58.022
27-23	58.023
27-24	58.024
27-25	58.025
27-26	58.026
27-27	58.027
27-28	120.001
27-29	58.028
27-30	58.999, 120.999
28-16	51.001
28-17	51.001
28-18	51.001
28-19	51.001
28-20	51.001
28-21	51.001
28-22	51.001
28-23	51.001
28-24	51.002
28-25	51.003
28-26	51.003
28-27	52.001
28-28	52.002, 52.003
28-29	52.003
28-30	52.003
28-31	52.003
28-32	52.004
28-33	52.005
28-34	52.006
28-35	52.007
28-41	52.020

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<i>2013 Code</i>	<i>2019 Code</i>
28-42	52.021
28-43	52.022
28-44	52.023
28-45	52.024
28-46	52.025
28-47	52.026
28-48	52.027
28-49	52.028
28-50	52.029
28-51	52.030
28-52	52.031
28-53	52.999
28-61	52.045
28-62	52.046
28-63	52.047
28-64	52.048
28-65	52.049
28-66	52.049
28-67	52.049
28-68	52.051
28-69	52.999
28-76	52.065
28-77	52.066
28-78	52.067
28-79	52.068
28-80	52.069
28-81	52.070
28-82	52.071
28-83	52.072
28-84	52.073
28-85	52.073
28-86	52.074
28-87	52.075
28-88	52.076
28-89	52.077
28-90	52.078
28-91	52.079

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<i>2013 Code</i>	<i>2019 Code</i>
28-92	52.080
28-93	52.081
28-94	52.082
28-95	52.083
28-96	52.084
28-97	52.084
28-98	52.999
28-99	52.999
28-120	53.001
28-121	53.002
28-122	53.003
28-123	53.004
28-124	53.005
28-125	53.006
28-126	53.007
28-127	53.008
28-128	53.009
28-129	53.020
28-130	53.021
28-131	53.022
28-132	53.023
28-133	53.024
28-134	53.025
28-135	53.026
28-136	53.026
28-137	53.026
28-138A	53.026
28-138B	53.026
28-139	53.026
28-140	54.001
28-141	54.002
28-142	54.003
28-143	54.004
28-144	54.005
28-145	54.006
28-146	54.007
28-147	54.008

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<i>2013 Code</i>	<i>2019 Code</i>
28-148	54.009
28-149	54.999
28-150	54.010
28-160	55.001
28-161	55.002
28-162	55.003
28-163	55.004
28-164	55.005
28-165	55.006
28-166	55.007
28-167	55.007
28-168	55.007
28-169	55.008
28-170	55.009
28-171	55.010
28-172	55.011
28-173	55.999
28-174	55.012
28-175	55.013
28-201	56.001
28-202	56.002
28-203	56.003
28-204	56.004
28-205	56.005
28-206	56.006
28-207	56.007
28-208	56.008
28-209	56.999
28-210	56.009
28-211	56.010

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
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<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
2017-287	10-9-2017	35.01 - 35.26
2018-155	8-29-2018	31.048

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1	8-14-1950	31.002, 31.045
9	8-14-1950	32.018
10	8-14-1950	33.002, 33.004, 33.006, 33.007
11	8-14-1950	32.015 - 32.017, 32.999
12	8-14-1950	32.018
16	8-14-1950	31.001
17	8-14-1950	31.046
20	8-14-1950	151.070 - 151.079
22	8-14-1950	57.999
23	8-14-1950	57.001, 57.053 - 57.055
24	8-14-1950	57.015 - 57.019, 57.021 - 57.024
29	8-14-1950	110.003 - 110.005
31	8-14-1950	118.001, 118.002, 118.025, 118.028, 118.999
32	8-14-1950	117.003
33	8-14-1950	117.001, 117.002, 117.004 - 117.006
35	8-14-1950	113.001 - 113.006
38	8-14-1950	74.002
40	8-14-1950	91.040 - 91.042
42	8-14-1950	95.001, 95.005, 95.006, 95.008, 95.009
47	8-14-1950	112.003, 112.015, 112.017, 112.018, 112.020, 112.021
48	8-14-1950	112.023
58	8-14-1950	75.007
61	8-14-1950	52.001
66	8-14-1950	70.029 133.001, 133.999
68	8-14-1950	70.001 - 70.006, 70.009 - 70.011, 70.025 - 70.028, 70.040, 70.041, 70.999, 71.001 - 71.011, 71.025, 71.027 - 71.029, 71.041 -

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		71.046, 71.060 - 71.063, 71.065, 71.080, 71.081, 71.083 - 71.087, 71.089, 72.001, 72.007 - 72.009, 72.012 - 72.014, 72.016, 72.055, 72.056, 75.001 - 75.006, 75.008; Ch. 76, Sch. VI; Ch. 76, Sch. VIII
73	8-14-1950	130.047
75	8-14-1950	130.010, 130.011, 130.013 - 130.015, 130.045, 130.046, 131.001, 131.003 - 131.005, 132.001 , 132.002, 133.002 - 133.005
8048	3-28-1951	32.015
8086	4-24-1951	52.002 - 52.004
8142	7-10-1951	32.016
8141	7-11-1951	71.087, 72.012 - 72.014, 72.016
8463	1-26-1953	32.018
8516	7-13-1953	118.026
8597	1-27-1954	33.002
8764	1-24-1955	32.018
8775	2-28-1955	57.001
8874	7-12-1955	72.009
9025	2-27-1956	31.045
9073	6-25-1956	90.020, 90.023, 90.025 - 90.033, 90.054
9091	8-27-1956	57.019, 57.020
9161	1-28-1957	Ch. 77, Sch. VIII
9477	2-24-1958	90.001, 90.035
9751	1-13-1959	131.002
9801	4-28-1959	133.002
10292	7-16-1962	57.019
10324	11-12-1962	150.001 - 150.010
10440	7-11-1963	112.003, 112.021
10478	9-24-1963	133.002
10556	3-30-1964	111.026 - 111.028
10586	5-11-1964	119.001 - 119.004, 119.006 - 119.015
10596	5-27-1964	111.001, 111.002, 111.004 - 111.010, 111.027, 111.040 - 111.050, 111.065 - 111.068
10665	10-12-1964	130.005, 130.007, 131.005
10717	3-23-1965	57.001
10722	4-13-1965	31.001

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10761A	5-24-1965	50.001 - 50.009, 50.020 - 50.030, 50.999
10842	12-15-1965	31.001
10838	12-17-1965	151.015 - 151.024
10860	12-29-1965	33.003
10877	2-28-1966	130.009
10905	5-11-1966	130.007
11059	5-9-1967	90.026, 90.029
—	4-9-1968	72.009
11308	10-15-1968	71.089
11621	1-12-1969	31.046, 31.999
11652	4-15-1970	72.011
11654	4-22-1970	50.001
11658	4-29-1970	70.008
11690	6-23-1970	90.001
11765	11-10-1970	74.002
11806	1-12-1971	130.001, 130.004
12017	4-11-1972	90.020, 90.023, 90.025 - 90.033, 90.054, 90.999
12240	5-3-1973	33.002
12376	12-26-1973	73.040 - 73.055
12390	1-15-1974	90.030, 90.054
12392	1-31-1974	151.001 - 151.003, 151.999
12416	2-27-1974	151.001, 151.999
12447	4-11-1974	95.001, 95.003 - 95.010, 95.999
12455	4-23-1974	130.001
12463	5-1-1974	90.021
12491	6-18-1974	Ch. 77, Sch. IX
12490	6-28-1974	150.001 - 150.010
12502	7-24-1974	71.090
12521	8-14-1974	70.008
12611	12-5-1974	91.001
12723	6-16-1975	30.001, 31.015 - 31.017
12716	7-8-1975	31.045
12749	8-11-1975	31.001
12750	8-15-1975	31.016, 31.017
12786	9-22-1975	33.002, 33.004 - 33.006
12788	9-22-1975	50.001, 50.008
12787	9-25-1975	130.016

Marshalltown, IA Code of Ordinances

Ord. No.	Date Passed	Code Section
12797	10-16-1975	50.001, 50.065 - 50.074
12837	12-26-1975	52.005
12889	3-8-1976	151.002
12975	7-28-1976	71.088
12993	9-27-1976	50.001 - 50.009, 50.020 - 50.030, 50.032, 50.999
13031	12-13-1976	155.001 - 155.004, 155.999
13033	12-13-1976	33.002
13149	6-13-1977	130.003
13162	6-27-1977	95.999
13169	7-11-1977	151.002
13170	7-11-1977	72.014
13202	9-12-1977	93.006, 93.999
13312	4-10-1978	151.001 - 151.003, 151.999
13352	5-22-1978	33.002
13500	2-12-1979	72.004
13511	3-12-1979	57.004
13525	4-9-1979	130.006
13560	6-25-1979	72.999
13641	11-13-1979	Ch. 77, Sch. VIII
13677	2-25-1980	Ch. 77, Sch. VII
13710	4-14-1980	73.015 - 73.019
13806	9-22-1980	31.046
13862	12-9-1980	70.012
13933	3-23-1981	151.001, 151.002, 151.999
13944	3-23-1981	91.001
13987	5-11-1981	90.021, 90.026
14047	7-27-1981	52.006
14051	8-10-1981	93.001 - 93.005, 93.999
14066	8-24-1981	117.020 - 117.023
14067	8-24-1981	151.035 - 151.042
14089	10-26-1981	31.001
14129	2-8-1982	11.006
14130	2-8-1982	33.035 - 33.043
14135	7-12-1982	155.002
14137	8-9-1982	70.006, 70.999
14138	8-23-1982	130.019, 130.999
14159	6-27-1983	110.001

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
14165	10-10-1983	31.001
14169	11-14-1983	90.001, 95.001
14175	2-13-1984	94.001, 94.002, 94.015 - 94.022, 94.035 - 94.041, 94.055 - 94.064
14176	3-12-1984	33.002
14182	4-23-1984	Ch. 77, Sch. VI
14183	5-15-1984	151.001, 151.002, 151.999
14184	7-9-1984	91.001 - 91.005
14198	9-24-1984	70.013; Ch. 77, Sch. III
14206	11-13-1984	72.013
14216	6-10-1985	72.017; Ch. 77, Sch. X
14218A	6-24-1985	70.013
14225	11-12-1985	Ch. 77, Sch. III
14426	1-14-1986	91.002
14228	4-14-1986	57.015, 151.016
14230	5-27-1986	151.001, 151.002, 151.999
14231	5-27-1986	91.001 - 91.005
14232	5-27-1986	90.020, 90.023, 90.026
14233	6-23-1986	32.018, 33.001
14252	4-27-1987	52.006
14253	4-27-1987	32.001 - 32.003
14256	5-11-1987	92.001 - 92.005, 92.999
14261	8-10-1987	90.050, 90.053, 90.055
14264	12-14-1987	31.001
14286	2-27-1989	151.017
14293	7-10-1989	112.003
14308	12-11-1989	10.999
14309	12-18-1989	115.001 - 115.004, 115.999
14310	1-8-1990	50.032
14315	4-9-1990	31.003, 31.032
14317	5-29-1990	72.003
14338	11-26-1990	151.002
14340	12-27-1990	50.001, 50.020, 50.999
14345	3-25-1991	31.001
14353	8-26-1991	31.016
14357	9-23-1991	130.017, 130.999
14363	11-12-1991	11.001
14364	11-12-1991	71.012

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Ord. No.	Date Passed	Code Section
14366	11-25-1991	117.035 - 117.047
14365	12-23-1991	74.001
14367	12-23-1991	74.001, 74.999
14369	1-13-1992	31.030 - 31.032
14374	3-23-1992	151.001, 151.002, 151.999
14375	3-23-1992	153.001, 153.002, 153.999
14388	8-10-1992	72.017
14392	8-14-1992	154.001 - 154.003, 154.015 - 154.023, 154.036, 154.050 - 154.060, 154.075 - 154.093, 154.999
14394	10-12-1992	133.001, 133.999
14399	10-26-1992	71.090
14403	12-14-1992	57.002
14407	12-28-1992	Ch. 77, Sch. X
14408	12-28-1992	74.001, 74.999
14409	12-30-1992	130.048, 130.999
14414	2-8-1993	71.013, 71.999, 74.001, 74.999
14417	3-22-1993	31.031
14373	3-23-1993	91.001 - 91.005
14423	4-26-1993	130.008
14424	4-26-1993	130.031
14425	5-10-1993	115.004
14429	6-14-1993	58.001 - 58.003, 58.015 - 58.028, 58.999, 120.001, 120.999
14437	8-23-1993	152.001 - 152.008, 152.020 - 152.028, 152.999
14438	8-23-1993	52.065 - 52.085, 52.999
14446	11-8-1993	52.068
14449	12-20-1993	112.002
14457	3-28-1994	31.048
14422	4-26-1994	130.049
14459	5-9-1994	33.020
14459	5-9-1994	33.020, 33.023 - 33.026
14461	5-23-1994	52.045 - 52.051, 52.999
14462	6-13-1994	50.008
14473	8-8-1994	50.001, 50.028, 50.048, 50.049, 50.999
14472	8-25-1994	50.001, 50.020, 50.045 - 50.047, 50.999
14490	1-9-1995	Ch. 77, Sch. VI

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Ord. No.	Date Passed	Code Section
14489	1-19-1995	130.030, 130.999
14494	2-13-1995	Ch. 77, Sch. V
14497	2-27-1995	73.043
14498	2-27-1995	130.006
14515	2-27-1995	153.002
14500	3-13-1995	117.021
14488	5-8-1995	Ch. 77, Sch. VIII
14505	7-11-1995	Ch. 77, Sch. X
14508	9-11-1995	33.020, 33.021, 33.023 - 33.026
14513	11-13-1995	Ch. 77, Sch. VI
14514	11-13-1995	32.002
14521	12-11-1995	72.018, 72.999
14525	2-12-1996	Ch. 77, Sch. V
14527	3-11-1996	112.003
14529	3-25-1996	130.032, 130.999
14531	3-25-1996	52.020 - 52.031, 52.999
14538	3-25-1996	152.008
14534	4-8-1996	151.001, 151.002, 151.999
14535	4-8-1996	115.001 - 115.004, 115.999
14536	4-8-1996	153.001, 153.002, 153.999
14540	4-22-1996	72.999
10904	5-11-1996	70.001
14542	6-10-1996	10.008
14543	6-10-1996	91.001
14543	6-10-1996	91.002
14543	6-10-1996	91.003
14543	6-10-1996	91.004
14543	6-10-1996	91.005
14545	6-24-1996	93.007, 93.999
14547	7-8-1996	30.002
14556	1-13-1997	Ch. 77, Sch. VIII
14557	2-10-1997	Ch. 77, Sch. IX
14558	2-10-1997	152.999
14564	4-14-1997	52.051
14571	6-23-1997	51.001 - 51.004
14572	6-23-1997	52.029
14575	8-11-1997	130.048, 130.999

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Ord. No.	Date Passed	Code Section
14561	10-13-1997	72.035 - 72.043, 72.999
14580	2-9-1998	113.020 - 113.022
14586	4-13-1998	114.001 - 114.007, 114.020 - 114.025, 114.040 - 114.064, 114.075 - 114.084, 114.095 - 114.101, 114.115 - 114.123, 114.135 - 114.142, 114.155 - 114.164, 114.999
14232	5-27-1998	90.021
14595	7-27-1998	Ch. 77, Sch. V
14601	9-14-1998	72.070 - 72.074; Ch. 77, Sch. X
14605	12-30-1998	90.022
14609	12-30-1998	33.004, 50.021, 50.023, 57.015, 110.003, 117.003, 119.003, 119.004, 119.007, 119.008, 119.012, 119.013, 120.001
14614	1-11-1999	Ch. 77, Sch. V
14608	1-25-1999	Ch. 77, Sch. VI
14616	2-28-1999	Ch. 77, Sch. V
14622	3-22-1999	34.001 - 34.007, 34.999
14623	4-12-1999	Ch. 77, Sch. X
14627	4-12-1999	51.001
14626	6-28-1999	33.022
14638	1-24-2000	71.014
14642	2-14-2000	131.006
14643	2-14-2000	130.030, 130.999
14647	5-8-2000	153.001, 153.002
14648	5-8-2000	151.001, 151.002, 151.999
14665	11-13-2000	72.999
14666	11-27-2000	117.002
14668	2-26-2001	57.038
14672	2-26-2001	72.037 - 72.043, 72.999
14678	8-27-2001	11.002 - 11.005
14686	12-10-2001	Ch. 77, Sch. VI
14690	4-22-2002	52.051
14691	4-22-2002	52.029
14689	4-23-2002	94.018, 94.020, 94.021
14700	9-23-2002	31.045
14706	2-24-2003	51.001
14707	3-10-2003	90.001, 90.020 - 90.023, 90.025 - 90.035, 90.050, 90.053, 90.054 - 90.056, 90.999

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Ord. No.	Date Passed	Code Section
14709	3-24-2003	130.017, 130.032, 130.999
14710	3-24-2003	50.001 - 50.006, 50.045
14711	3-24-2003	51.001, 51.003, 52.999
14709	3-25-2003	90.024, 90.034, 90.999, 133.001, 133.999
14712	5-28-2003	31.003
14702	6-10-2003	72.001, 72.040, 73.001, 73.002
14713	7-14-2003	53.001
14714	7-14-2003	72.999
14716	7-14-2003	154.085, 154.088
14723	9-8-2003	71.999
14731	1-12-2004	52.007
14732	1-12-2004	50.030
14733	1-12-2004	110.002
14737	5-24-2004	154.085
14739	7-12-2004	Ch. 77, Sch. X
14740	7-12-2004	130.012
14741	7-12-2004	71.012
14742	8-16-2004	Ch. 77, Sch. X
14746	9-13-2004	53.026
14749	11-8-2004	130.012
14750	11-8-2004	Ch. 77, Sch. X
14748	12-27-2004	90.002, 90.003
14754	12-27-2004	154.035
14757	1-24-2005	90.029
14759	2-28-2005	31.001
14766	8-8-2005	57.001
14769	8-8-2005	73.015
14768	8-22-2005	130.030, 130.999
14773	10-10-2005	71.093
14774	10-24-2005	58.019, 58.020
14777	11-14-2005	57.023
14779	3-13-2006	57.041
14781	3-27-2006	Ch. 76, Sch. III
14780	4-24-2006	52.029
14782	4-24-2006	72.999
14784	6-12-2006	Ch. 77, Sch. IX; Ch. 77, Sch. X
14787	9-25-2006	130.048, 130.999

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Ord. No.	Date Passed	Code Section
14789	10-23-2006	Ch. 77, Sch. III
14793	1-8-2007	151.055, 151.056, 151.999
14799	2-12-2007	112.004
14800	2-26-2007	54.001 - 54.010, 54.999
14801	3-12-2007	90.050 - 90.052, 90.054 - 90.056
14803	3-12-2007	151.001 - 151.003, 151.999
14805	4-9-2007	91.001 - 91.005, 151.075
14806	4-9-2007	T.S.O. I
14807	4-9-2007	T.S.O. I
14818	9-10-2007	Ch. 77, Sch. III
14819	12-17-2007	154.035
14823	1-28-2008	31.048
14824	2-11-2008	55.001 - 55.013, 55.999
14825	2-11-2008	91.020 - 91.026, 91.999
14828	3-18-2008	Ch. 77, Sch. III
14830	5-12-2008	50.006, 50.999
14832	5-27-2008	Ch. 77, Sch. VIII
14840	8-11-2008	Ch. 76, Sch. III
14852	2-9-2009	52.051
14853	2-23-2009	56.001 - 56.010, 56.999
14854	4-13-2009	130.048, 130.999
14855	4-13-2009	52.029
14861	9-14-2009	90.005, 90.006, 90.024, 90.036, 90.051, 90.052, 90.054, 90.999
14869	3-8-2010	Ch. 77, Sch. VIII
14870	3-8-2010	52.006, 52.020, 52.021, 52.031, 52.045, 52.046, 52.051, 54.007
14870	3-10-2010	31.030
14870	3-17-2010	151.002
14871	4-12-2010	156.001 - 156.003, 156.015 - 156.029, 156.040 - 156.044, 156.055 - 156.059, 156.070 - 156.074, 156.085 - 156.089, 156.100 - 156.105, 156.120 - 156.125, 156.140 - 156.145, 156.160 - 156.169, 156.180 - 156.184, 156.195 - 156.200, 156.215 - 156.222, 156.235 - 156.242, 156.255 - 156.263, 156.275 - 156.282, 156.295 - 156.303, 156.315 - 156.322, 156.335 - 156.342, 156.355 - 156.363,

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Ord. No.	Date Passed	Code Section
		156.375 - 156.383, 156.395 - 156.415, 156.430, 156.445, 156.446, 156.460 - 156.465, 156.480 - 156.486, 156.500 - 156.503, 156.515 - 156.522, 156.535 - 156.538, 156.550 - 156.552, 156.565 - 156.570, 156.585 - 156.589, 156.600 - 156.606, 156.620 - 156.626, 156.999
14872	4-26-2010	90.020, 93.003
14874	6-28-2010	Ch. 77, Sch. VI
14875	7-12-2010	70.009, 70.012, 71.012, 72.003
14876	7-12-2010	50.028, 50.999
14878	8-23-2010	Ch. 77, Sch. IX
14878	8-23-2010	Ch. 77, Sch. X
14881	2-14-2011	Ch. 76, Sch. VIII
14884	3-14-2011	110.002, 118.001 - 118.009, 118.011 - 118.013, 118.999
14879	3-28-2011	Ch. 77, Sch. I; Ch. 77, Sch. X
14885	5-9-2011	10.999
14886	6-27-2011	110.002, 118.001 - 118.013, 118.999
14887	7-11-2011	116.001
14888	8-22-2011	11.002
14889	9-26-2011	112.003, 112.004, 112.035 - 112.042, 112.999
14892	11-28-2011	Ch. 76, Sch. VIII
14893	12-19-2011	71.086
14894	12-19-2011	131.006
14895	1-23-2012	154.035, 154.036
14896	1-23-2012	152.999
14897	2-27-2012	31.048
14899	4-9-2012	52.066
14900	6-11-2012	153.001, 153.002
14910	8-13-2012	Ch. 77, Sch. VIII; Ch. 77, Sch. X
14912	11-26-2012	72.037 - 72.043, 72.999
14913	11-26-2012	50.028, 50.999
14914	12-10-2012	52.029 - 52.031, 52.999
14915	2-25-2013	Ch. 76, Sch. VIII
14917	3-25-2013	Ch. 77, Sch. IV - VI
14918	4-22-2013	53.001 - 53.005, 53.007 - 53.009, 53.020 - 53.026

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Ord. No.	Date Passed	Code Section
14919	5-13-2013	90.056
14920	6-24-2013	151.056, 151.999
14924	7-22-2013	Ch. 77, Sch. IX
14926	10-28-2013	Ch. 77, Sch. VIII
14928	11-11-2013	57.023
14935	8-25-2014	Ch. 77, Sch. IX
14932	9-8-2014	118.009
14933	9-8-2014	10.999, 50.999, 52.999
14934	9-8-2014	71.086
14936	1-26-2015	154.035, 154.036
14937	1-26-2015	Ch. 76, Sch. VI
14944	1-11-2016	52.003; Ch. 77, Sch. I
14945	3-14-2016	52.029 - 52.031, 52.999
14947	3-14-2016	58.019, 58.020, 58.024
14956	2-27-2017	53.006
14959	3-13-2017	57.001, 95.001 - 95.010, 95.999
14969	9-25-2017	52.066, 52.073, 52.080
—	11-27-2017	90.034
14970	11-27-2017	10.999, 31.046, 31.999, 50.999, 52.077, 52.999, 56.999, 57.999, 58.999, 70.006, 70.999, 71.090, 71.999, 73.002, 90.024, 90.034, 90.999, 92.005, 93.006, 93.007, 93.999; Ch. 76, Sch. VI; Ch. 77, Sch. VII; 115.999, 120.999, 130.012, 130.017, 130.019, 130.030, 130.032, 130.048, 130.999, 133.001, 133.999, 151.056, 151.999, 152.999, 153.999, 155.999
14971	3-13-2018	130.018, 130.999
14972	5-14-2018	154.035, 154.036
14974	6-11-2018	Ch. 77, Sch. III; Ch. 77, Sch. VII
14973	7-9-2018	57.002, 57.035 - 57.052
14977	8-27-2018	Ch. 77, Sch. IX
14978	9-10-2018	151.035 - 151.042
14979	11-26-2018	T.S.O. II
14980	4-8-2019	156.195 - 156.200, 156.430
14981	3-22-2019	T.S.O. II
14982	5-28-2019	Ch. 77, Sch. II
14983	6-10-2019	Adopting Ordinance
14984	7-22-2019	151.001 - 151.003

Marshalltown, IA Code of Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
14985	7-22-2019	91.001, 91.002, 91.020 - 91.026

**RESOLUTION APPROVING AN AGREEMENT FOR THE RETENTION OF
TORNADO-DAMAGED TREE STUMPS AT 8 NORTH 10TH STREET**

WHEREAS, the City of Marshalltown issued and awarded a bid for the removal of tree stumps in an area from the western city limits to 9th Street; and

WHEREAS, the owner of 8 North 10th Street, a Ms. Linda Ruiter, requested the City not remove the tornado-damaged tree stumps located in the terrace area so that she could try to regrow the trees; and

WHEREAS, the City of Marshalltown desires to remove all future liability and expense related to the tornado-damaged tree stumps;

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, the attached Tree Stump Agreement is hereby approved and the Mayor is directed to execute the agreement.

Passed this 23rd day of September, 2019 and signed this ____ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel T.S. Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

TREE STUMP AGREEMENT

This Agreement ("Agreement") is made as of the date of last signature below by and between, the City of Marshalltown, Iowa, an Iowa municipal corporation ("City") and Linda Ruiter, an individual ("Owner").

RECITALS

1. Owner is the record title holder of property located at 8 N. 10th Street, Marshalltown, Iowa, 50158.
2. Following a tornado in Marshalltown, Iowa on July 19, 2018, the City and its residents sustained substantial damage, including to trees and vegetation.
3. Pursuant to City Ordinance § 58.025, Trimming and Removal of Hazardous Terrace Trees, the City undertook to trim and remove damaged trees throughout the city.
4. Two such trees to be removed by the City were located on the Owner's property, within the terrace¹.
5. The City cut the trees down to a stump.
6. The Owner has requested the City not remove the stumps to allow the Owner to encourage or regenerate new growth from the stump.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the sufficiency of which is expressly acknowledged, City and Owner agree as follows:

1. IDENTIFICATION OF TREES. Owner and City agree that the tree stumps are located within the front yard terrace of Owner's property, locally known as 8 N. 10th Street, Marshalltown, Iowa, 50158, and legally described as follows:
The South 68 ¼ feet of Lots 1, 2, and 3, in Block 2 in Sleight's Addition to Marshall, Marshall County, Iowa, except the South 8 ¼ feet thereof, subject to easements and restrictions of record, if any.
2. PERFORMANCE
 - a. Owner's Performance.
 - i. Owner agrees to encourage the regrowth or regeneration of the downed trees on the property.
 - ii. Owner shall continue to be responsible for the maintenance of the trees, as required by City of Marshalltown Municipal Ordinances.

¹ Terrace is defined in Marshalltown City Ordinance §58.003.

- iii. Owner agrees to waive any rights under the Marshalltown Municipal Ordinances concerning the City's maintenance or removal of the trees at issue, especially as noted in § 58.025.
 - iv. Owner agrees that if directed by the City, in writing, to remove the tree, regardless of the stage of regrowth, if any, the Owner shall remove either or both trees, including grinding of the stump(s). This shall be done in compliance with standards imposed upon the City by Ordinance, but at the Owner's sole expense.
 - b. City's Performance
 - i. The City will not remove the identified trees, subject however to the City reserving its rights to require the removal of the identified trees at a later date.
- 3. INDEMNIFICATION. Owner agrees to indemnify and hold harmless the City, its council, employees, affiliates, and their respective successors and assigns, against any loss, liability, claim, damage, and expense whatsoever (including, but not limited to, any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any litigation commenced or threatened or any claim whatsoever) arising out of or based upon any injuries, damages, claims for loss asserted by the Owner or a third-party.
- 4. GENERAL PROVISIONS. In the performance of each part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Agreement shall apply to and bind the successors in interest of the parties. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
- 5. RECORDING. The parties agree to promptly record this document with the Marshall County Recorder.
- 6. GOVERNING LAW. This Agreement shall be governed and enforced in accordance with the laws of the Iowa.
- 7. ENTIRE AGREEMENT. This Agreement represents the entire Agreement between the Parties. Any modifications, waivers or amendments to this Agreement must be in writing and signed by both Parties.

LINDA RUITER,

an Iowa resident

Dated this ____ day of _____, 2019.

By: _____

CITY OF MARSHALLTOWN, IOWA,

an Iowa municipal corporation

Dated this ____ day of _____, 2019.

By: _____

Joel Greer, Mayor

Attest:

Shari Coughenour, City Clerk

Address:

Address: 24 N. Center Street

Marshalltown, Iowa 50158

Telephone:

Telephone: 641-754-5701



Form 517007 {5-2019}
Office of Local Systems
Ames, IA 50010

City Name
MARSHALLTOWN
City Number
4797

City Street Financial Report

Report Generated
9/20/2019 12:23 PM
Fiscal Year
2019
Sheet
1 of 13

Cover Sheet

Now therefore let it be resolved that the city council MARSHALLTOWN, Iowa
(City Name)

On 09/23/2019 did hereby approve and adopt the annual
(month/day/year)

City Street Financial Report from July 1, 2018 to June 30, 2019
(Year) (Year)

Contact Information

Name	E-mail Address	Street Address	city	ZIP Code
Diana Steiner	dsteiner@marshalltown-ia.gov	24 N Center St	Marshalltown	50158-4911
Hours	Phone	Extension	Phone(Alternative)	
8:30 am - 5 pm	641-754-5760	2100	641-754-5702	

Preparer Information

Name	E-mail Address	Phone	Extension
Diana Steiner	dsteiner@marshalltown-ia.gov	641-754-5760	2100

Mayor Information

Name	E-mail Address	Street Address	city	ZIP Code
Joel Greer	jgreer@marshalltown-ia.gov	24 N Center St	Marshalltown	50158-4911
Phone	Extension			
641-754-5700	1103			

Resolution Number _____

Signature Mayor

Signature City Clerk



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Summary Statement Sheet

Column 1
Road use
Tax Fund

Column 2
Other Street
Monies

Column 3
Street Debt

Column 4
Totals

Round Figures to Nearest Dollars

A.BEGINNING BALANCE				
1. July 1 Balance	\$4,534,240	\$61,264	\$0	\$4,595,504
2. Adjustments (Note on Explanation Sheet)	\$0	\$0	\$0	\$0
3. Adjusted Balance	\$4,534,240	\$61,264	\$0	\$4,595,504

B. REVENUES				
1. Road Use Tax	\$3,559,454			\$3,559,454
2. Property Taxes		\$419,451	\$2,067,670	\$2,487,121
3. Special Assessments		\$10,292	\$0	\$10,292
4. Miscellaneous		\$594,199	\$363,219	\$957,418
5. Proceeds from Bonds, Notes, and Loans		\$1,000,000	\$0	\$1,000,000
6. Interest Earned		\$15,884	\$0	\$15,884
7. Total Revenues (Lines B1 thru B6)	\$3,559,454	\$2,039,826	\$2,430,889	\$8,030,169
C. Total Funds Available (Line A3 + Line B7)	\$8,093,694	\$2,101,090	\$2,430,889	\$12,625,673

Column 1
Road use
Tax Fund

Column 2
Other Street
Monies

Column 3
Street Debt

Column 4
Totals

Round Figures to Nearest Dollars

EXPENSES				
D. Maintenance				
1. RoadWay Maintenance	\$1,285,067	\$633,816	\$0	\$1,918,883
2. Snow and Ice Removal	\$240,419	\$44,619	\$0	\$285,038
E.Construction, Reconstruction and Improvements				
1. Engineering	\$276,728	\$83,408	\$0	\$360,136
2. Right of Way Purchased	\$0	\$0	\$0	\$0
3. Street/Bridge Construction	\$10,748	\$41,879	\$0	\$52,627
4. Traffic Services	\$0	\$16,859	\$0	\$16,859
F. Administration	\$119,166	\$22,723	\$0	\$141,889
G. Equipment	\$82,768	\$0	\$0	\$82,768
H. Miscellaneous		\$33,056	\$0	\$33,056
J. street Debt				
1. Bonds, Notes and Loans -Principal Paid	\$0	\$0	\$2,152,548	\$2,152,548
2. Bonds, Notes and Loans - Interest Paid	\$0	\$0	\$278,341	\$278,341

TOTALS				
K. Total Expenses (Lines D thru J)	\$2,014,896	\$876,360	\$2,430,889	\$5,322,145
L. Ending Balance (Line C-K)	\$6,078,798	\$1,224,730	\$0	\$7,303,528
M. Total Funds Accounted For (K + L = C)	\$8,093,694	\$2,101,090	\$2,430,889	\$12,625,673



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Miscellaneous Revenues and Expenses Sheet

Code Number and Itemization of Miscellaneous Revenues (Line B4 on the Summary Statement Sheet)(See Instructions)	Column 2 Other Street Monies	Column 3 Street Debt
195---Tax Increment Financing (TIF)	\$0.00	\$363,219.00
140---Federal Government (misc.)	\$131,648.00	\$0.00
170---Reimbursements (misc.)	\$115,037.00	\$0.00
190---Other Miscellaneous	\$8,352.00	\$0.00
193---Fines & Fees	\$1,826.00	\$0.00
174---Sales Tax / Local Option	\$337,336.00	\$0.00
Line B4 Totals	\$594,199.00	\$363,219.00

Code Number and Itemization of Miscellaneous Expenses (Line H on the Summary Statement Sheet) "On street" parking expenses, street maintenance, buildings, insurance, administrative costs for printing, legal fees,bond fees etc. (See Instructions)	Column 2 Other Street Monies	Column 3 Street Debt
220---Insurance	\$33,056.00	\$0.00
Line H Totals	\$33,056.00	\$0.00



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Bonds, Notes and Loans Sheet

New Bond ?	Debt Type	Debt Purpose	DOT Use Only	Issue Date	Issue Amount	% Related to Street	Year Due	Principal Balance as of 7/1	Total Principal Paid	Total Interest Paid	Principal Roads	Interest Roads	Principal Balance as of 6/30
☐	General Obligation	Street Improvements	106	10/26/2011	\$2,380,000	100	2027	\$1,540,000	\$150,000	\$36,075	\$150,000	\$36,075	\$1,390,000
☐	General Obligation	Street Improvements	107	04/12/2012	\$5,000,000	100	2027	\$3,775,000	\$400,000	\$74,938	\$400,000	\$74,938	\$3,375,000
☐	General Obligation	Street Improvements	108	03/12/2013	\$5,000,000	100	2022	\$3,945,000	\$970,000	\$62,925	\$970,000	\$62,925	\$2,975,000
☐	General Obligation	Street Improvements	109	12/30/2014	\$2,000,000	100	2023	\$1,271,910	\$247,191	\$28,494	\$247,191	\$28,494	\$1,024,719
☐	General Obligation	Street Improvements	110	11/24/2015	\$1,762,854	100	2024	\$1,586,569	\$220,357	\$37,009	\$220,357	\$37,009	\$1,366,212
☐	General Obligation	Street Improvements	111	08/09/2016	\$2,035,000	100	2025	\$1,945,000	\$165,000	\$38,900	\$165,000	\$38,900	\$1,780,000
☒	General Obligation	Street Improvements	112	12/03/2018	\$1,000,000	100	2029	\$1,000,000	\$0	\$0	\$0	\$0	\$1,000,000
		New Bond Totals			\$1,000,000	\$1,000,000	Totals	\$15,063,479	\$2,152,548	\$278,341	\$2,152,548	\$278,341	\$12,910,931



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Project Final Costs Sheet

For construction, reconstruction, and improvement projects with costs equal to or greater than 90% of the bid threshold in effect as the beginning of the fiscal year.

Check here if there are no entities for this year ☒

Project Final Costs Sheet (Section A)

1. Project Number	2. Estimated Cost	3. Project Type	4. Public Letting?	5. Location/Project Description (limits, length, size of structure)
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Project Final Costs Sheet (Section B)

1. Project Number	6. Contractor Name	7. Contract Price	8. Additions/ Deductions	9. Labor	10. Equipment	11. Materials	12. Overhead	13. Total
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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
6991	2015	Tiger Bengal Extendable Boom Mower - Side Mount	\$28,500	\$0		\$0		No	NOCH
6997	2016	International 7300 SFA4X2 Dump Truck	\$129,866	\$0		\$0		No	NOCH
7008	2015	Street Sweeper	\$160,720	\$0		\$0		No	NOCH
7009	2015	Case End Loader Model 721F	\$164,426	\$0		\$0		No	NOCH
7010	2016	International 7400 Dump Truck with Plow Attachments	\$132,166	\$0		\$0		No	NOCH
5260	1986	Wisconsin Tagalong Trailer	\$14,923	\$0		\$0		No	NOCH
5204	1987	Dresser 515B Endloader	\$81,133	\$0		\$0		No	JUNK
5126	1995	Chevy S-10 Pickup #53627	\$11,092	\$0		\$0		No	NOCH
6212	1987	Chev Basket Truck #110497	\$69,842	\$0		\$0		No	NOCH
4991	2011	O'Halloran Dump truck & plow #33339	\$30,646	\$0		\$0		No	NOCH
4989	1994	Gaillion Motor Grader #200888	\$94,975	\$0		\$0		No	NOCH
4988	1991	Ford 3/4 Ton 4x4 Pickup #B00649	\$13,743	\$0		\$0		No	NOCH
4510	1997	Chev Truck w/Plow #106206	\$62,285	\$0		\$0		No	NOCH
4489	1998	Road LaserPaint Line Striper BA207	\$35,660	\$0		\$0		No	NOCH
4358	1984	Ford 2 1/2 Ton Dump Truck #07011	\$7,000	\$0		\$0		No	NOCH
3234	1998	Chev Truck w/Plow #109893	\$92,586	\$0		\$0		No	NOCH
4235	1999	Chev Dump Truck #100422	\$75,959	\$0		\$0		No	NOCH
3889	1990	Compost Read Screen All (Sifter) #1134	\$49,000	\$0		\$0		No	NOCH
3770	1999	Chev Dump Truck #105957	\$75,213	\$0		\$0		No	NOCH



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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
6666	1990	JF Disc Mower #1902	\$5,600	\$0		\$0		No	NOCH
3351	2004	NewHolland Skid loader/trencher	\$45,980	\$0		\$0		No	NOCH
2774	2000	Chev 1 Ton Pickup #452706	\$29,566	\$0		\$0		No	NOCH
3345	1990	CAT 9386 Wheel Endloader #05926	\$120,160	\$0		\$0		No	NOCH
3344	2000	Chev 4x4 Pickup #179194	\$20,630	\$0		\$0		No	NOCH
3334	2000	Chevy 1/2 Ton Pickup #07041	\$16,194	\$0		\$0		No	NOCH
5430	2000	Chev Dump Truck #525874	\$73,177	\$0		\$0		No	NOCH
3324	1999	Ford 1 Ton F350 Truck #63282	\$18,941	\$0		\$0		No	NOCH
3319	2001	Johnston Street Sweeper #172051	\$110,969	\$0		\$0		No	NOCH
3316	2002	Chev Dump Truck #500826	\$77,608	\$0		\$0		No	NOCH
3305	2002	Chev Dump Truck #501009	\$77,608	\$0		\$0		No	NOCH
3298	2003	Chev 1/2 Ton Pickup #287190	\$19,835	\$0		\$0		No	NOCH
3278	2003	International Dump Truck #069944	\$71,823	\$0		\$0		No	NOCH
3277	1994	Ford LTA 9000 Heavy Truck #37705	\$15,000	\$0		\$0		No	NOCH
3274	2007	Dura Patcher #14108	\$54,500	\$0		\$0		No	NOCH
3267	2008	Medium duty truck & snow equip MDL L7500	\$80,664	\$0		\$0		No	NOCH
3259	2008	Kubota Utility Tractor #52600	\$24,950	\$0		\$0		No	NOCH
3257	2008	GPS System Trimble R8 (design survey equip)	\$24,878	\$0		\$0		No	NOCH
3253	2010	DuraPatch 6000 gallon oil tank	\$47,585	\$0		\$0		No	NOCH
6225	2012	Falcon 4 ton hot patcher	\$34,622	\$0		\$0		No	SOLD



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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
6255	2011	Elgin Pelican Sweeper	\$163,594	\$0		\$0		No	NOCH
6264	2011	Snogo MP-3D snow blower	\$139,938	\$0		\$0		No	NOCH
6265	2013	International 7300 SFA 4x2 dump truck	\$114,616	\$0		\$0		No	NOCH
6256	2012	Ford Expedition 4 x 4	\$32,316	\$0		\$0		No	NOCH
6417	2000	Ford F450 Aerial Ladder truck (utility)	\$43,335	\$0		\$0		No	NOCH
6419	2006	Fork lift (street)	\$15,600	\$0		\$0		No	NOCH
6421	2012	JD Excavator-Model 200CLC s/nFF200CX507 (Street)	\$99,500	\$0		\$0		No	NOCH
6422	2012	Eager Beaver Lowboy Trailer sn/ 112SLZ433 (street)	\$41,500	\$0		\$0		No	NOCH
6423	2013	Xerox Printer X7545 XKP545157 (street)	\$10,812	\$0		\$0		No	NOCH
6424	2012	Contex scanner and color printer (Engineering)	\$16,354	\$0		\$0		No	NOCH
6515	2012	Concrete Breaker (Engineering)	\$7,531	\$0		\$0		No	NOCH
6514	2012	Garden Tractor (Street)	\$12,000	\$0		\$0		No	NOCH
6509	2014	Intl 7300 4x2 Dump Truck (Street)	\$129,071	\$0		\$0		No	NOCH
6508	2014	Ford Explorer 4x4 (Engineering)	\$21,771	\$0		\$0		No	JUNK
6614	1111	Hydraulic breaker (Sewer)	\$7,890	\$0		\$0		No	NOCH
6724	2015	Ford F250 SD (Sewer)	\$6,894	\$0		\$0		No	NOCH
6757	2014	Landpride RC 5020 Mower (Sewer/Dike)	\$6,889	\$0		\$0		No	NOCH
6941	2014	Bobcat Toolcat	\$30,998	\$0		\$0		No	NOCH
6949	2015	Speed Trailer	\$16,864	\$0		\$0		No	NOCH
6889	2010	Vactor 2100 plus (storm sewer portion)	\$123,006	\$0		\$0		No	NOCH



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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
6894	2011	Ford 3/4 ton pickup #15049	\$21,635	\$0		\$0		No	NOCH
6904	2009	Int'l Dump Truck & Snow Plow	\$100,912	\$0		\$0		No	NOCH
6888	1990	Used Scissor Lift (Utility)	\$9,750	\$0		\$0		No	NOCH
6897	1990	MOHAWK LIFT	\$9,950	\$0		\$0		No	NOCH
6833	1999	Hyster Forklift #1587W	\$16,000	\$0		\$0		No	NOCH
6858	2006	Chevy Colorado #9404 (Utility)	\$13,819	\$0		\$0		No	NOCH
6859	2005	Graco Line Lazer & Driver #BA2768	\$9,397	\$0		\$0		No	NOCH
6856	2005	Crafco 125 Super Shot - crack sealer #418327	\$20,900	\$0		\$0		No	NOCH
6854	2005	Woods 15' Batwing Mower #1011192	\$11,825	\$0		\$0		No	NOCH
6853	2005	Land Pride 37 Series Disc Mower #441337	\$5,372	\$0		\$0		No	NOCH
6482	2005	Dump Truck & Snow Plow #306718	\$79,683	\$0		\$0		No	NOCH
5422	2005	Johnston Str Sweeper #172002	\$115,929	\$0		\$0		No	NOCH
5430	1989	ford C8000 cab & Chassisw/Pitman Polecat (Utility)	\$19,299	\$0		\$0		No	NOCH
6804	2005	Ford Ranger XLT (Utility)	\$14,870	\$0		\$0		No	NOCH
6812	2005	John Deere Front End Loader #595830	\$94,120	\$0		\$0		No	NOCH
6802	2005	Intrnl Dump Truck #151371	\$72,259	\$0		\$0		No	NOCH
6803	2004	GMC Dump Truck w/ snow plow #520664	\$72,414	\$0		\$0		No	NOCH
6816	2004	Chev Silverado-white w/ snow plow #363651	\$23,622	\$0		\$0		No	NOCH
6684	1977	Koering Bantam #206705	\$80,000	\$0		\$0		No	NOCH
6554	1982	Seaman Pulverisor #1088004	\$66,969	\$0		\$0		No	NOCH



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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
6551	1977	Gallion Steel Roller #812162	\$18,000	\$0		\$0		No	NOCH
6549	1973	Catepillar Motor Grader #89J2186	\$15,000	\$0		\$0		No	NOCH
6544	1969	IHC Crawler Tractor #26263	\$18,000	\$0		\$0		No	NOCH
6195	1985	Case Tractor #11490096	\$10,657	\$0		\$0		No	NOCH
5952	1111	IHC End Loader #32286	\$59,000	\$0		\$0		No	NOCH
5951	1988	Turner 48" Flail Mower #22308	\$21,900	\$0		\$0		No	NOCH
5776	1989	Leeboy Ashalt Paver #L1000 T-959	\$34,052	\$0		\$0		No	NOCH
5777	1111	6 Tailgate Spreaders/Vibrators	\$12,078	\$0		\$0		No	NOCH
5746	1111	Humpback Trailer Pump #13955	\$7,884	\$0		\$0		No	NOCH
5728	1995	Trailer Mounted Hot Box	\$14,875	\$0		\$0		No	NOCH
5429	2000	Chev Dump Truck w/ snow equip #25692	\$73,177	\$0		\$0		No	NOCH
5412	1959	Load King Trailer #8154	\$20,000	\$0		\$0		No	NOCH
5410	1986	Chev Dump Truck #100222	\$20,720	\$0		\$0		No	NOCH
7036	2017	Ram 2500 Truck (Street Dept)	\$29,390	\$0		\$0		No	NOCH
7039	2015	Used John Deer Gator	\$6,889	\$0		\$0		No	NOCH
7040	2018	International Dump Truck for Street Dept.	\$136,150	\$0		\$0		No	NOCH
7037	2017	Ram 2500 Truck (Engineering Dept)	\$29,390	\$0		\$0		No	NOCH
7080	2018	International 7400 SFA 4X2 Dumpt Truck with snow plow	\$140,519	\$0		\$0		No	NOCH
7071	2017	FORD F-350 KNPHEIDE SERVICE BODY W/ R&H LADDER UNIT	\$76,427	\$0		\$0		No	NOCH
7124	2018	DuraPatcher Cimline P2 250' Gallon Trailer Mounted	\$58,122	\$0		\$0		No	NEW



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Road/Street Equipment Inventory Sheet

1. Local Class I.D. #	2. Model Year	3. Description	4. Purchase Cost	5. Lease Cost	/Unit	6. Rental Cost	/Unit	7. Used On Project this FY?	8. Status
	2018	Grapple Bucket	\$17,500	\$0		\$0		No	NEW
7107	2018	John Deere Model 1570 Terrain with mower deck and front mount blower	\$37,800	\$0		\$0		No	NEW
7109	2018	RAM 2500 4X4 Crew Cab 149" WB Tradesman	\$27,826	\$0		\$0		No	NEW
7084	2018	Ford Explorer AWD	\$27,985	\$0		\$0		No	NEW
7110	2019	Ford F250 XL Crew 4X4	\$28,750	\$0		\$0		Yes	NEW



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Explanation Sheet

Comments
1. DOT Bond 112. Bond was issued for \$2.4 million in FY19, of which \$1 million is for streets. No principal or interest payments are due until FY20. 2. Misc Revenue Code 190 includes bond premium. 3. There are no projects listed as there were no certificates of completion for new and improved construction. Marshalltown had a tornado July 19, 2019, so Public Works staff were primarily dealing with debris clean-up and maintenance of existing roads this fiscal year. Staff time spent on tornado clean-up was charged to a different fund other than Road Use Tax. Therefore, expenses are significantly lower than prior years.



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Monthly Payment Sheet

Month	Road Use tax Payments
July	\$262,766.97
August	\$416,607.15
September	\$399,742.71
October	\$246,970.09
November	\$308,913.88
December	\$312,753.76
January	\$300,622.56
February	\$297,916.41
March	\$242,654.06
April	\$149,955.52
May	\$332,171.39
June	\$288,379.72
Totals	\$3,559,454.22

MARSHALLTOWN

— I O W A —

Joel Greer, Mayor
Jessica Kinser, Administrator
Diana Steiner, Finance Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5760
Fax - (641) 754-5781

FINANCE DEPARTMENT

September 18, 2019

To: Mayor Joel Greer
Members of the City Council

From: Diana Steiner, Finance Director

Re: Approval of City Street Financial Report (SFR) for FY19

Policy Issue: Iowa Code section 312.14 requires all cities to submit the SFR to the Iowa Department of Transportation by September 30th of each year.

Recommendation: The SFR annual report has been prepared by the Finance staff and City Council approval is required. The report is filed electronically.

Background: This report outlines all activity as reported in the Road Use Tax (RUT) fund 110 and also shows other activities associated with streets, including debt payments, capital projects and street-related equipment purchases. On page 2 of this report, it shows the City received \$3,559,454 for RUT in FY2019 (\$3,500,000 was budgeted). Expenses from RUT were \$2,014,896. Since there was a beginning balance of \$4,534,240, this leaves an ending fund balance of \$6,078,798. Other funding sources for streets are also shown on the report, which includes property taxes, special assessments, federal funds, local option sales tax, and other miscellaneous revenues. The detail for the miscellaneous revenue is on page 3. Page 4 reflects the principal and interest payments on bonds related to street improvements. Of the \$2.4M bond that was issued this past December, \$1M was allocated for streets. Normally, page 5 would show new or significantly improved road construction projects that were completed at June 30th (certificate of completion issued). However, due to the tornado, Public Works staff had to focus on debris removal and maintenance of the roads, so no projects that are required to be reported were completed. This is also the reason why expenses are so much lower in comparison to prior years. Staff time was charged to the tornado fund, rather than the RUT fund. The bottom of page 10 and page 11 is new equipment purchased. Page 12 has other explanations.

Budget Impact: If the report is not submitted by the due date, the State can withhold RUT payments to the City.

Attachment: 2019 Street Finance Report - Marshalltown

cc: Jessica Kinser, City Administrator

RESOLUTION TO APPROVE FINAL TRANSFERS BETWEEN FUNDS FOR FISCAL YEAR 2018-2019

2019-_____

WHEREAS the fiscal year 2019 budget provides for certain transfers between funds and, whereas the books should now indicate appropriate transfers;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA that the Finance Director be directed to make said transfers as follows:

Transferred From	Transferred To	Explanation of activity	Amended Budget Amount	Total Cash Transfers	Under (over) Budget
Cash Transfers					
2016 GO Storm Water Project Fund	Local Option Sales Tax	Move cash to reimburse LOST fund for Storm Water Project expenses (ie. Levee repair)	45,000	46,794	(1,794)
2019 CY Street Projects	Economic Development Project Fund	Move cash amongst capital projects to fund individual projects (Merle Hibbs Ext)	-	36,879	(36,879)
CIP Tax Collection Fund	Airport capital project fund	City portion of Airport capital projects	37,300	37,300	-
CIP Tax Collection Fund	Capital Improvement Reserve Fund	Capital expenditures paid from governmental capital reserve fund. Cash is transferred from the capital improvement levy funds where the property taxes were receipted.	609,629	487,911	121,718
CIP Tax Collection Fund	CIP Large Vehicle/Equipment Fund	Move cash to CIP Large vehicle fund to fund future purchase (ie. fire truck).	106,000	106,000	-
City Tort Liability Fund	Coliseum Remodel Fund	\$10,000 deductible for tornado claim	10,000	0	10,000
Emergency Levy Fund	General	Property taxes collected in Emergency fund with the cash being transferred to the general fund	232,482	231,882	600
Employee benefits fund	General	Reimbursement to general fund for employee benefits: FICA, IPERS, group health insurance, workman 's comp, retirees health savings contributions (non-union payout in lieu of sick and vacation based upon guidelines for payouts)	2,414,076	2,340,613	73,463
General Fund	D&D Fund	Move landfills fee to Dangerous and Dilapidated Project Fund, per council resolution.	478,745	478,745	-

Transferred From	Transferred To	Explanation of activity	Amended Budget Amount	Total Cash Transfers	Under (over) Budget
Cash Transfers					
General fund	Bike Path Project Fund	Reimbursement of Expenses related to Bike Trail, City Engineer Wages, Benefits, Etc.	-	7,212	(7,212)
General fund	Police grants	Close out unreimbursed expenses with police grants and transfers amongst three funds	871	871	0
General fund	Transit	Property taxes collected in general (as required) with the cash being transferred to the transit enterprise fund	256,481	263,552	(7,071)
Housing Grants	#6 HUD Lead Grant	Use as match	26,088	0	26,088
Local Option Sales Tax	2018 CY Street Projects Fund	Move cash to capitals projects to fund individual projects (ie. Microsurfacing)	105,000	337,336	(232,336)
Local Option Sales Tax	Airport capital project fund	City match portion of airport projects	23,000	18,844	4,156
Local Option Sales Tax	Debt Service Fund	Property tax relief from local option sales tax (LOST) collected	3,051,375	3,016,268	35,107
Local Option Sales Tax	General	Council designated funds from local option sales tax (LOST) collected to fund FY19 fund 001 budget deficit	14,840	14,840	-
Local Option Sales Tax	Grant-State/Local Agencies Fund	Council designated funds from local option sales tax (LOST) collected to individual project fund (ie. Wayfinding)	20,000	16,814	3,187
Local Option Sales Tax	Bike Path Project Fund	Council designated funds from local option sales tax (LOST) collected to individual project funded	65,000	8,402	56,599
Local Option Sales Tax	Economic Development Project Fund	Council designated funds from local option sales tax (LOST) collected to individual project funds (E. Southridge Rd)	88,517	88,481	36
Local Option Sales Tax - Council Designated	Cash Flow Reserve Fund	Transfer amount to build up a cash reserve of 15% of the General Fund 001 expenses to help with cash flow and have funds set aside in case of emergencies.	158,683	158,683	-
Police & Fire retirement	General	Reimbursement to general fund for civil service retirement payments to Municipal Fire & Police Retirement System of Iowa (MFPRSI)	1,152,430	1,133,703	18,727
Police grants	Police grants	Move Expenses to correct fund	-	516	(516)
Police grants	General Fund	Move Expenses to correct fund	-	15	(15)
Road use tax fund	2016 GO Street Projects Fund	Move cash to capitals projects to close individual projects and fund (S. Center St. Bridge).	12,533	12,532	1

Transferred From	Transferred To	Explanation of activity	Amended Budget Amount	Total Cash Transfers	Under (over) Budget
Cash Transfers					
Road use tax fund	CY 2018 Street Projects	Move cash to capitals projects to fund individual projects (S. 3rd St. Bridge).	5,000	5,000	-
Road use tax fund	Federal Street Grants	Return City portion of Federal street grants	(39,069)	(39,069)	0
Road use tax fund	General	Reimbursement to general fund for employee wages associated with the public works department	1,217,588	899,740	317,848
Road use tax fund	WPCP funds	Cover Wages paid by the WPCP Fund.	11,000	0	11,000
Road use tax fund	TIF #4 Capital Projects Fund	Move cash to capitals projects to close individual projects (Hwy 14 Rehab).	-	15,903	(15,903)
TIF tax collection fund	Debt Service	Portion of 2015, 2011 B refunding bond & 2012A issue paid with tax increment financing property taxes	365,600	363,219	2,381
TIF tax collection fund	General	Façade project expenses paid by general fund. Cash is transferred from TIF collection fund where the property taxes are collected.	50,973	61,884	(10,911)
TIF tax collection fund	TIF District #4 Project Fund	Move cash to capitals projects (Coliseum feasibility)	163,250	146,510	16,740
WPCP revenue fund	WPCP fund (Expense)	Cover consolidation of project funds within WPCP series and move dollars from WPCP revenue fund to WPCP expenditure fund	-	5,362,184	(5,362,184)
WPCP revenue fund	WPCP Revenue Bond Fund	Move cash amongst capitals projects to close individual projects (Manhole & Point Repair, Televising)	32	101,712	(101,680)
WPCP Revenue Bond Fund	Sanitary Sewer Rehab Projects	Move cash amongst capitals projects to close individual projects (E. Interceptor Sewer, Rehab)	-	58,609	(58,609)

Total amount of budgeted transfers between funds

10,682,424

15,819,885

(5,137,461)

Passed, approved and adopted this 23rd day of Sept 2019

Attest: _____ Attest: _____
Mayor City Clerk

MARSHALLTOWN

— I O W A —

Joel Greer, Mayor
Jessica Kinser, Administrator
Diana Steiner, Finance Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5760
Fax - (641) 754-5781

FINANCE DEPARTMENT

September 18, 2019

To: Mayor Joel Greer
Members of the City Council

From: Diana Steiner, Finance Director

Re: Approval of FY2019 Transfers between funds

Policy Issue: Council approves transfers between funds.

Recommendation: Staff recommends approving budgeted transfers and the additional transfers between funds for this fiscal year.

Background: Effective April 13, 2019, the City Finance Committee, organized under Iowa Administrative Code, approved changes to Administrative Rules Code 545-2 requiring greater disclosures for all interfund transfers. The rules require cities to provide the originating fund and receiving fund, purpose, and amount of the transfer during the budget process and also require additional resolutions any time transfers exceed the original or amended budget amounts.

Within the attached resolution, staff have outlined the original adopted budget transfers, the changes related to the budget amendment approved in May, the actual transfers posted for the entire fiscal year ending June 30, 2019, and the difference between the budget and actual. See the explanation column for more detail. In many instances, the revenue from property tax levies are shown in one fund and then transferred out to the fund where the expenditures are accounted for. Other times, the Council has designated Local Option Sales Tax (LOST) to fund specific items.

Budget Impact: N/A. Total transfers in always equal total transfers out.

Attachment: Resolution To Approve Final Transfers Between Funds for Fiscal Year 2018-2019

cc: Jessica Kinser, City Administrator

MARSHALLTOWN

— I O W A —

Joel Greer, Mayor
Jessica Kinser, Administrator
Diana Steiner, Finance Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5760
Fax - (641) 754-5781

FINANCE DEPARTMENT

September 19, 2019

To: Mayor Joel Greer
Members of the City Council

From: Diana Steiner, Finance Director

Re: June Monthly Financial Statements

Policy Issue: N/A.

Recommendation: Staff recommends approving the June 2019 monthly financial statements.

Background: The Finance department has prepared and reconciled the June 2019 preliminary financial statements for your review. The budgeted amounts reflect the amendment approved in May. The attached reports include the following:

- Fund Balance Report, which includes the beginning balance at 6/30/18, the year-to-date revenues and expenses for 12 months and the ending fund cash balance.
- Cash & Investments Report, which includes current balances and interest rates for all city investments.
- Monthly Budget Report, which reflects monthly and year-to-date revenues and expenses by each fund and then in summary. If the YTD Activity amount is less than the YTD Budget amount, it will show as unfavorable for revenues and favorable for expenses.

Items of interest this month:

*The Police & Fire Building expenses in fund 354 were \$543,211 (YTD \$9.2 million).

*Tornado expenses in Funds 145-147 were \$1,148,058 (YTD \$3.7 million). This includes Coliseum and the Public Works building repairs that are reimbursed by insurance.

*A payment was made for street microsurfacing for \$337,321.

Budget Impact: N/A

Attachment: June 2019 Financial Statements

cc: Jessica Kinser, City Administrator

PRELIMINARY

MARSHALLTOWN IOWA

FUND BALANCE REPORT AS OF 06/30/19

Fund	Beginning Balance	Total Revenues	Total Expenses	Ending Balance
001 - GENERAL FUND	1,556,085.70	15,071,035.74	14,865,406.62	1,761,714.82
010 - CASH FLOW RESERVE FUND	2,086,100.92	209,630.45	-	2,295,731.37
030 - CAPITAL RESERVE	224,801.61	740,697.95	728,228.99	237,270.57
031 - CAPITAL RSRV-BLDG MAINT	440,029.28	8,671.60	174,441.00	274,259.88
032 - CIP LARGE VEHICLE/EQUIPMENT	106,000.00	106,000.00	-	212,000.00
110 - ROAD USE TAX	4,534,210.54	3,559,454.22	2,014,867.01	6,078,797.75
112 - EMPLOYEE BENEFITS FUND	2,443,812.88	2,594,593.62	2,343,505.28	2,694,901.22
117 - POLICE/FIRE RETIREMENT	423,994.86	1,229,822.64	1,143,404.40	510,413.10
119 - EMERGENCY FUND	-	231,881.96	231,881.96	-
121 - LOCAL OPTION SALES TAX	4,084,222.31	3,414,532.95	3,757,098.50	3,741,656.76
125 - TAX INCREMENT FINANCING	500,738.78	905,336.51	887,316.48	518,758.81
130 - CITY TORT LIABILITY	71,645.60	43,716.27	31,584.62	83,777.25
132 - GRANTS-STATE/LOCAL AGENCIES	(5,261.13)	192,616.84	236,872.50	(49,516.79)
140 - PARK & REC DONATION FUND	67,724.68	38,927.76	10,904.67	95,747.77
141 - MTOWN TENNIS ASSOC	1,685.91	42.01	-	1,727.92
142 - SOFTBALL ASSOCIATION FUND	1,020.65	33,297.15	20,588.03	13,729.77
144 - LIVE HEALTHY IOWA	1,434.31	2,003.89	309.76	3,128.44
145 - TORNADO GENERAL	-	4,142,111.89	3,541,951.66	600,160.23
146 - FEMA VALOR	-	18,615.34	82,963.90	(64,348.56)
147 - FEMA DEMO	-	10,000.00	39,608.21	(29,608.21)
150 - COPS FAST GRANTS	(3,749.78)	49,746.44	48,815.61	(2,818.95)
151 - DEPT OF JUSTICE GRANTS	(685.68)	23,205.50	33,539.41	(11,019.59)
152 - POLICE UNDESIGNATED GRANTS	(3,264.76)	90,736.96	86,278.10	1,194.10
153 - POLICE DEPT DONATION FUND	151,172.19	61,383.63	117,997.98	94,557.84
155 - (D)POLICE PENSION - SPEC REV	-	-	-	-
156 - FIRE DEPT DONATION FUND	16,896.39	2,204.43	10,047.22	9,053.60
157 - FIRE DEPT GRANTS	4,608.45	115.00	-	4,723.45
160 - ECONOMIC DEVELOPMENT GIFT	50,000.17	1,247.66	-	51,247.83
161 - SURETY DEPOSITS/SUBDIVIDER	10,431.31	260.29	-	10,691.60
170 - LIBRARY DONATION FUND	97,429.97	40,481.26	27,593.52	110,317.71
177 - SEIZED ASSETS (POLICE)	40,445.23	18,645.64	16,865.19	42,225.68
179 - OTHER COMM AND ECON DEVELOPMENT	155,352.52	15,059.74	89,134.92	81,277.34
180 - HOUSING GRANTS	16,123.55	10,381.71	-	26,505.26
181 - (D)HUD LEAD GRANT	-	-	-	-
182 - #4 HUD LEAD GRANT	-	334.00	-	334.00
183 - FY 08 EDI (ECON DEV INCENTIVE)	(12,189.25)	-	840.00	(13,029.25)
184 - VOUCHERS - 002, 003	83,916.62	1,262,293.03	1,219,622.44	126,587.21
189 - #6 HUD LEAD GRANT	-	31,899.19	44,733.76	(12,834.57)
190 - 911 SURCHARGE	464.27	47,035.11	47,499.38	-
200 - GO BONDS DEBT FUND	86,909.39	4,171,861.12	4,112,485.00	146,285.51

PRELIMINARY

Fund	Beginning Balance	Total Revenues	Total Expenses	Ending Balance
300 - CIP COLLECTION FUND	169,223.58	584,299.07	631,211.13	122,311.52
310 - FEDERAL STREET GRANTS	(66,984.26)	92,578.80	25,594.54	-
311 - RISE STREET GRANTS	(98,178.29)	98,178.29	-	-
312 - AIRPORT PROJECT FUND	(123,355.17)	124,986.90	23,767.15	(22,135.42)
320 - SPECIAL ASSESSMENT PROJECTS	(38,528.95)	14,445.00	-	(24,083.95)
340 - BIKE PATH PROJECT FUND	(225,706.49)	424,313.22	277,268.48	(78,661.75)
341 - TREES FOREVER PROJECT	2,196.27	13,435.38	7,444.93	8,186.72
350 - GO BONDS CAPITAL PROJECTS	8,498.01	212.06	-	8,710.07
354 - POLICE & FIRE STATIONS	11,912,130.55	175,154.66	9,200,450.46	2,886,834.75
355 - 2015 GO BONDS (D&D)	112,035.15	492,488.25	71,305.96	533,217.44
356 - 2016 BONDS - STREET PROJECTS	-	12,532.40	12,532.40	-
357 - 2018 CY STREET PROJECTS	(14.91)	342,335.65	342,320.74	-
380 - (D) S CENTER STREET PROJECTS	-	-	-	-
381 - 2019 CY STREET, SIDEWALK, PARKING PROJECTS	-	2,465,527.78	133,861.26	2,331,666.52
382 - PUBLIC WORKS FACILITY	-	-	-	-
383 - COLISEUM REMODEL	-	510,137.94	14,664.94	495,473.00
391 - TIF DISTRICT II CAP PROJECTS	-	-	-	-
392 - TIF DISTRICT III CAP PROJECTS	(8,017.10)	15,930.74	-	7,913.64
393 - TIF DISTRICT IV CAP PROJECTS	-	146,510.31	38,638.81	107,871.50
395 - ECONOMIC DEVELOPMENT PROJECT FUND	-	125,396.11	125,396.11	-
610 - WATER POLLUTION CONTROL	5,778.00	5,362,800.03	5,376,373.79	(7,795.76)
611 - WPCP REVENUE	10,296,770.66	8,455,482.56	5,522,505.34	13,229,747.88
612 - WPCP REVENUE BOND FUND	(31.52)	101,711.70	101,680.18	-
613 - SEWER I/I PROJECT	-	-	-	-
614 - WPCP CAPITAL IMPROVEMENT RSRV	1,020,098.91	17,179.90	-	1,037,278.81
615 - WPCP PLANT & IMPROVEMENTS	-	-	-	-
616 - SANITARY SEWER REHAB PROJECT	-	58,609.17	58,609.17	-
617 - SANITARY SEWER NEW CONSTRUCTN	89,981.26	14,862.64	-	104,843.90
618 - TORNADO-WPCP	-	-	2,295.51	(2,295.51)
690 - TRANSIT OPERATING	126,125.70	1,120,249.16	1,208,674.21	37,700.65
740 - STORM SEWER UTILITY	1,891,776.85	1,426,420.02	776,803.38	2,541,393.49
741 - 2016 GO STORM WATER PROJ	1,561,196.20	33,065.03	461,797.55	1,132,463.68
742 - TORNADO - STORM/SEWER	-	-	4,140.06	(4,140.06)
750 - COMPOSTING FACILITY	181,573.75	62,688.66	59,372.42	184,889.99
751 - TORNADO - COMPOST	-	-	463,058.08	(463,058.08)
760 - P&R CONCESSIONS ENTERPRISE	(13,460.81)	41,003.40	42,131.28	(14,588.69)
881 - OCCUPATIONAL INSURANCE ESCROW	84,635.27	134,790.10	146,588.61	72,836.76
884 - GROUP HEALTH INSURANCE ESCROW	2,369,657.85	2,837,564.00	2,897,902.01	2,309,319.84
886 - WORKMAN'S COMP DEDUCTIBLE FUND	37,367.51	920.75	1,000.42	37,287.84
910 - POLICE PENSION - T & A	-	9,673.44	9,673.44	-
913 - 911 COMMISION	(26,445.05)	945,425.20	991,678.88	(72,698.73)
950 - SUBDIVIDER IMPROVEMENT ESCROW	-	-	-	-
951 - SALES TAX REIMBURSEMENT	(2,113.56)	13,198.06	5,371.16	5,713.34
952 - SURETY BONDS/DEPOSITS	2,018.60	815.01	-	2,833.61
953 - IA STATE SLEUTH USR GRP	14,971.67	-	-	14,971.67
TOTAL	46,515,307.17	64,654,800.89	65,000,498.52	46,169,609.54

PRELIMINARY

Account	Name	Ending Balance	Interest Rate
BalObject: 0111 - Operating			
999.0111.000		9,731,281.99	2.75
	Total BalObject: 0111 - Operating:	9,731,281.99	
BalObject: 0112 - COLISEUM			
999.0112.000		145,542.64	2.75
	Total BalObject: 0112 - COLISEUM:	145,542.64	
BalObject: 0113 - Payroll			
999.0113.000		42,493.21	2.75
	Total BalObject: 0113 - Payroll:	42,493.21	
BalObject: 0114 - Dev Inspections			
999.0114.000		31,534.13	2.75
	Total BalObject: 0114 - Dev Inspections:	31,534.13	
BalObject: 0115 - HUD Admin			
999.0115.000		41,414.65	2.75
	Total BalObject: 0115 - HUD Admin:	41,414.65	
BalObject: 0116 - HUD HAP			
999.0116.000		69,268.31	2.75
	Total BalObject: 0116 - HUD HAP:	69,268.31	
BalObject: 0117 - Police			
999.0117.000	UB&T Police	17,380.42	2.75
	Total BalObject: 0117 - Police:	17,380.42	
BalObject: 0120 - PETTY CASH			
610.0120.000	PETTY CASH	200.00	0.00
750.0120.000	PETTY CASH	200.00	0.00
760.0120.000	PETTY CASH	300.00	0.00
	Total BalObject: 0120 - PETTY CASH:	700.00	
BalObject: 0121 - PETTY CASH-SWIMMING POOLS			
001.0121.000	PETTY CASH-SWIMMING POOLS	300.00	0.00
	Total BalObject: 0121 - PETTY CASH-SWIMMING POOLS:	300.00	
BalObject: 0122 - PETTY CASH-CITY CLERK			
001.0122.000	PETTY CASH-CITY CLERK	200.00	0.00
	Total BalObject: 0122 - PETTY CASH-CITY CLERK:	200.00	
BalObject: 0123 - PETTY CASH-LIBRARY			
001.0123.000	PETTY CASH-LIBRARY	100.00	0.00
	Total BalObject: 0123 - PETTY CASH-LIBRARY:	100.00	
BalObject: 0125 - PETTY CASH-PARK			
001.0125.000	PETTY CASH-PARK	225.00	0.00
	Total BalObject: 0125 - PETTY CASH-PARK:	225.00	
BalObject: 0130 - CASH HELD BY INSUR ADMI			

885.0130.000	CASH HELD BY INSUR ADMI	1.00	0.00
Total BalObject: 0130 - CASH HELD BY INSUR ADMI:		1.00	
BalObject: 0216 - GREAT WESTERN BANK MM			
354.0216.000	GREAT WESTERN BANK MM	1,883,699.90	2.41
381.0216.000	GREAT WESTERN BANK MM	44,926.54	2.41
999.0216.000	GREAT WESTERN BANK MM	5,344,252.20	2.41
Total BalObject: 0216 - GREAT WESTERN BANK MM:		8,407,216.32	
BalObject: 0225 - IPAIT CD (0-90 DYS)			
112.0225.000	IPAIT CD (0-90 DAYS)	1,003,134.85	2.33
121.0225.000	IPAIT CD (0-90 DAYS)	501,567.43	2.33
354.0225.000	IPAIT CD (0-90 DAYS)	1,003,134.85	2.33
999.0225.000	IPAIT CD (0-90 DAYS)	1,504,702.27	2.23
Total BalObject: 0225 - IPAIT CD (0-90 DYS):		4,012,539.40	
BalObject: 0240 - MIDWEST ONE CD (91-365 DAYS)			
121.0240.000	MIDWEST ONE CD (91-365 DAYS)	1,006,754.16	2.52 -- 2.70
381.0240.000	MIDWEST ONE CD (91-365 DAYS)	2,000,000.00	2.50
611.0240.000	MIDWEST ONE CD (91-365 DAYS)	2,016,788.56	2.55 -- 2.73
884.0240.000	MIDWEST ONE CD (91-365 DAYS)	1,006,583.56	2.62 -- 2.70
999.0240.000	MIDWEST ONE CD (91-365 DAYS)	5,034,048.58	2.40 -- 2.76
Total BalObject: 0240 - MIDWEST ONE CD (91-365 DAYS):		11,064,174.86	
BalObject: 0245 - IPAIT CD (91-364 DAYS)			
010.0245.000	IPAIT CD (91-364 DAYS)	500,000.00	2.55
121.0245.000	IPAIT CD (91-364 DAYS)	500,000.00	2.55
611.0245.000	IPAIT CD (91-364 DAYS)	1,000,000.00	2.55
614.0245.000	IPAIT CD (91-364 DAYS)	1,000,000.00	2.55
740.0245.000	IPAIT CD (91-364 DAYS)	1,000,000.00	2.55
Total BalObject: 0245 - IPAIT CD (91-364 DAYS):		4,000,000.00	
BalObject: 0252 - GNB 365 INV			
010.0252.000	GNB CD (365 DAYS)	500,000.00	2.72
121.0252.000	GNB CD (365 DAYS)	507,030.68	2.82
999.0252.000	GNB CD (365 DAYS)	3,026,406.67	2.54 -- 2.82
Total BalObject: 0252 - GNB 365 INV:		4,033,437.35	
BalObject: 0265 - IPAIT CD (365)			
999.0265.000	IPAIT CD (365 DAYS)	500,000.00	2.80
Total BalObject: 0265 - IPAIT CD (365):		500,000.00	
BalObject: 0266 - CENTRAL STATE BANK CD (> 1 YR)			
010.0266.000	CENTRAL STATE BANK (365 DAYS)	506,679.45	2.65
999.0266.000	CENTRAL STATE BANK (365 DAYS)	1,520,020.68	2.60 -- 2.70
Total BalObject: 0266 - CENTRAL STATE BANK CD (> 1 YR):		2,026,700.13	
BalObject: 0267 - FARMERS CD (> 1 YR)			
611.0267.000	FRMRS SVGS BK CD (365)	508,139.77	2.83
884.0267.000	FRMRS SVGS BK CD (365 DAYS)	505,779.96	2.84
999.0267.000	FRMRS SVGS BK CD (365 DAYS)	1,013,919.73	2.83 -- 2.84
Total BalObject: 0267 - FARMERS CD (> 1 YR):		2,027,839.46	
BalObject: 0999 - POOLED CASH			
999.0999.000	POOLED CASH	17,260.67	0.00
Total BalObject: 0999 - POOLED CASH		17,260.67	
TOTAL		46,169,609.54	



City of Marshalltown, IA

Monthly Budget Report - Marshalltown

Group Summary

For Fiscal: 2018-2019 Period Ending: 06/30/2019

PRELIMINARY

Account Type	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
Fund: 001 - GENERAL FUND					
Revenue	1,623,563.54	15,406,351.00	15,071,035.74	-335,315.26	15,406,351.00
Expense	1,320,493.09	15,363,920.00	14,865,406.62	498,513.38	15,363,920.00
Total Fund: 001 - GENERAL FUND:	303,070.45	42,431.00	205,629.12	163,198.12	42,431.00
Fund: 010 - CASH FLOW RESERVE FUND					
Revenue	2,753.65	183,683.00	209,630.45	25,947.45	183,683.00
Total Fund: 010 - CASH FLOW RESERVE FUND:	2,753.65	183,683.00	209,630.45	25,947.45	183,683.00
Fund: 030 - CAPITAL RESERVE					
Revenue	315,635.02	788,056.00	740,697.95	-47,358.05	788,056.00
Expense	44,789.40	1,012,557.00	728,228.99	284,328.01	1,012,557.00
Total Fund: 030 - CAPITAL RESERVE:	270,845.62	-224,501.00	12,468.96	236,969.96	-224,501.00
Fund: 031 - CAPITAL RSRV-BLDG MAINT					
Revenue	957.12	3,000.00	8,671.60	5,671.60	3,000.00
Expense	0.00	256,454.00	174,441.00	82,013.00	256,454.00
Total Fund: 031 - CAPITAL RSRV-BLDG MAINT:	957.12	-253,454.00	-165,769.40	87,684.60	-253,454.00
Fund: 032 - CIP LARGE VEHICLE/EQUIPMENT					
Revenue	0.00	106,000.00	106,000.00	0.00	106,000.00
Total Fund: 032 - CIP LARGE VEHICLE/EQUIPMENT:	0.00	106,000.00	106,000.00	0.00	106,000.00
Fund: 110 - ROAD USE TAX					
Revenue	288,379.72	3,500,000.00	3,559,454.22	59,454.22	3,500,000.00
Expense	346,042.51	3,539,422.00	2,014,867.01	1,524,554.99	3,539,422.00
Total Fund: 110 - ROAD USE TAX:	-57,662.79	-39,422.00	1,544,587.21	1,584,009.21	-39,422.00
Fund: 112 - EMPLOYEE BENEFITS FUND					
Revenue	25,644.04	2,613,880.00	2,594,593.62	-19,286.38	2,613,880.00
Expense	594,862.46	2,416,968.00	2,343,505.28	73,462.72	2,416,968.00
Total Fund: 112 - EMPLOYEE BENEFITS FUND:	-569,218.42	196,912.00	251,088.34	54,176.34	196,912.00
Fund: 117 - POLICE/FIRE RETIREMENT					
Revenue	12,888.76	1,223,338.00	1,229,822.64	6,484.64	1,223,338.00
Expense	303,714.74	1,163,630.00	1,143,404.40	20,225.60	1,163,630.00
Total Fund: 117 - POLICE/FIRE RETIREMENT:	-290,825.98	59,708.00	86,418.24	26,710.24	59,708.00
Fund: 119 - EMERGENCY FUND					
Revenue	2,105.21	232,482.00	231,881.96	-600.04	232,482.00

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Account Type	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
Expense	98,987.01	232,482.00	231,881.96	600.04	232,482.00
Total Fund: 119 - EMERGENCY FUND:	-96,881.80	0.00	0.00	0.00	0.00
Fund: 121 - LOCAL OPTION SALES TAX					
Revenue	341,831.37	3,190,000.00	3,414,532.95	224,532.95	3,190,000.00
Expense	1,591,413.91	3,720,466.00	3,757,098.50	-36,632.50	3,720,466.00
Total Fund: 121 - LOCAL OPTION SALES TAX:	-1,249,582.54	-530,466.00	-342,565.55	187,900.45	-530,466.00
Fund: 125 - TAX INCREMENT FINANCING					
Revenue	11,298.56	833,790.00	905,336.51	71,546.51	833,790.00
Expense	164,641.56	890,971.00	887,316.48	3,654.52	890,971.00
Total Fund: 125 - TAX INCREMENT FINANCING:	-153,343.00	-57,181.00	18,020.03	75,201.03	-57,181.00
Fund: 126 - TIF-LMI					
Revenue	0.00	8,859.00	0.00	-8,859.00	8,859.00
Total Fund: 126 - TIF-LMI:	0.00	8,859.00	0.00	-8,859.00	8,859.00
Fund: 130 - CITY TORT LIABILITY					
Revenue	292.37	42,611.00	43,716.27	1,105.27	42,611.00
Expense	0.00	36,724.00	31,584.62	5,139.38	36,724.00
Total Fund: 130 - CITY TORT LIABILITY:	292.37	5,887.00	12,131.65	6,244.65	5,887.00
Fund: 132 - GRANTS-STATE/LOCAL AGENCIES					
Revenue	16,813.50	195,010.00	192,616.84	-2,393.16	195,010.00
Expense	11,781.10	250,000.00	236,872.50	13,127.50	250,000.00
Total Fund: 132 - GRANTS-STATE/LOCAL AGENCIES:	5,032.40	-54,990.00	-44,255.66	10,734.34	-54,990.00
Fund: 140 - PARK & REC DONATION FUND					
Revenue	1,994.81	33,300.00	38,927.76	5,627.76	33,300.00
Expense	710.21	12,410.00	10,904.67	1,505.33	12,410.00
Total Fund: 140 - PARK & REC DONATION FUND:	1,284.60	20,890.00	28,023.09	7,133.09	20,890.00
Fund: 141 - MTOWN TENNIS ASSOC					
Revenue	6.03	20.00	42.01	22.01	20.00
Total Fund: 141 - MTOWN TENNIS ASSOC:	6.03	20.00	42.01	22.01	20.00
Fund: 142 - SOFTBALL ASSOCIATION FUND					
Revenue	20,047.91	29,332.00	33,297.15	3,965.15	29,332.00
Expense	4,114.77	29,332.00	20,588.03	8,743.97	29,332.00
Total Fund: 142 - SOFTBALL ASSOCIATION FUND:	15,933.14	0.00	12,709.12	12,709.12	0.00
Fund: 144 - LIVE HEALTHY IOWA					
Revenue	1,978.17	12,500.00	2,003.89	-10,496.11	12,500.00
Expense	0.00	7,351.00	309.76	7,041.24	7,351.00
Total Fund: 144 - LIVE HEALTHY IOWA :	1,978.17	5,149.00	1,694.13	-3,454.87	5,149.00
Fund: 145 - TORNADO GENERAL					
Revenue	1,285,802.60	3,506,002.00	4,142,111.89	636,109.89	3,506,002.00
Expense	1,178,488.79	4,637,449.00	3,541,951.66	1,095,497.34	4,637,449.00

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Total Fund: 145 - TORNADO GENERAL:	107,313.81	-1,131,447.00	600,160.23	1,731,607.23	-1,131,447.00
Fund: 146 - FEMA VALOR					
Revenue	0.00	0.00	18,615.34	18,615.34	0.00
Expense	15.13	86,605.00	82,963.90	3,641.10	86,605.00
Total Fund: 146 - FEMA VALOR:	-15.13	-86,605.00	-64,348.56	22,256.44	-86,605.00
Fund: 147 - FEMA DEMO					
Revenue	0.00	25,000.00	10,000.00	-15,000.00	25,000.00
Expense	-30,445.57	102,871.00	39,608.21	63,262.79	102,871.00
Total Fund: 147 - FEMA DEMO:	30,445.57	-77,871.00	-29,608.21	48,262.79	-77,871.00
Fund: 150 - COPS FAST GRANTS					
Revenue	9,364.83	55,001.00	49,746.44	-5,254.56	55,001.00
Expense	-6,623.40	49,402.00	48,815.61	586.39	49,402.00
Total Fund: 150 - COPS FAST GRANTS:	15,988.23	5,599.00	930.83	-4,668.17	5,599.00
Fund: 151 - DEPT OF JUSTICE GRANTS					
Revenue	0.00	24,848.00	23,205.50	-1,642.50	24,848.00
Expense	620.19	44,848.00	33,539.41	11,308.59	44,848.00
Total Fund: 151 - DEPT OF JUSTICE GRANTS:	-620.19	-20,000.00	-10,333.91	9,666.09	-20,000.00
Fund: 152 - POLICE UNDESIGNATED GRANTS					
Revenue	5,966.13	92,423.00	90,736.96	-1,686.04	92,423.00
Expense	-20,942.87	107,750.00	86,278.10	21,471.90	107,750.00
Total Fund: 152 - POLICE UNDESIGNATED GRANTS:	26,909.00	-15,327.00	4,458.86	19,785.86	-15,327.00
Fund: 153 - POLICE DEPT DONATION FUND					
Revenue	150.40	56,600.00	61,383.63	4,783.63	56,600.00
Expense	523.45	131,726.00	117,997.98	13,728.02	131,726.00
Total Fund: 153 - POLICE DEPT DONATION FUND:	-373.05	-75,126.00	-56,614.35	18,511.65	-75,126.00
Fund: 156 - FIRE DEPT DONATION FUND					
Revenue	31.60	5,000.00	2,204.43	-2,795.57	5,000.00
Expense	0.00	20,000.00	10,047.22	9,952.78	20,000.00
Total Fund: 156 - FIRE DEPT DONATION FUND:	31.60	-15,000.00	-7,842.79	7,157.21	-15,000.00
Fund: 157 - FIRE DEPT GRANTS					
Revenue	16.48	60.00	115.00	55.00	60.00
Total Fund: 157 - FIRE DEPT GRANTS:	16.48	60.00	115.00	55.00	60.00
Fund: 160 - ECONOMIC DEVELOPMENT GIFT					
Revenue	178.85	650.00	1,247.66	597.66	650.00
Total Fund: 160 - ECONOMIC DEVELOPMENT GIFT:	178.85	650.00	1,247.66	597.66	650.00
Fund: 161 - SURETY DEPOSITS/SUBDIVIDER					
Revenue	37.31	185.00	260.29	75.29	185.00
Total Fund: 161 - SURETY DEPOSITS/SUBDIVIDER:	37.31	185.00	260.29	75.29	185.00

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Account Type	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
Fund: 170 - LIBRARY DONATION FUND					
Revenue	7,152.85	21,500.00	40,481.26	18,981.26	21,500.00
Expense	1,316.97	32,600.00	27,593.52	5,006.48	32,600.00
Total Fund: 170 - LIBRARY DONATION FUND:	5,835.88	-11,100.00	12,887.74	23,987.74	-11,100.00
Fund: 177 - SEIZED ASSETS (POLICE)					
Revenue	2,067.95	16,015.00	18,645.64	2,630.64	16,015.00
Expense	188.40	16,890.00	16,865.19	24.81	16,890.00
Total Fund: 177 - SEIZED ASSETS (POLICE):	1,879.55	-875.00	1,780.45	2,655.45	-875.00
Fund: 179 - OTHER COMM AND ECON DEVELOPMENT					
Revenue	283.64	14,393.00	15,059.74	666.74	14,393.00
Expense	-19.60	106,613.00	89,134.92	17,478.08	106,613.00
Total Fund: 179 - OTHER COMM AND ECON DEVELOPMENT:	303.24	-92,220.00	-74,075.18	18,144.82	-92,220.00
Fund: 180 - HOUSING GRANTS					
Revenue	92.50	9,964.00	10,381.71	417.71	9,964.00
Expense	0.00	26,088.00	0.00	26,088.00	26,088.00
Total Fund: 180 - HOUSING GRANTS:	92.50	-16,124.00	10,381.71	26,505.71	-16,124.00
Fund: 182 - #4 HUD LEAD GRANT					
Revenue	0.00	0.00	334.00	334.00	0.00
Total Fund: 182 - #4 HUD LEAD GRANT:	0.00	0.00	334.00	334.00	0.00
Fund: 183 - FY 08 EDI (ECON DEV INCENTIVE)					
Expense	200.00	640.00	840.00	-200.00	640.00
Total Fund: 183 - FY 08 EDI (ECON DEV INCENTIVE):	200.00	640.00	840.00	-200.00	640.00
Fund: 184 - VOUCHERS - 002, 003					
Revenue	24,880.92	1,372,630.00	1,262,293.03	-110,336.97	1,372,630.00
Expense	87,729.55	1,444,095.00	1,219,622.44	224,472.56	1,444,095.00
Total Fund: 184 - VOUCHERS - 002, 003:	-62,848.63	-71,465.00	42,670.59	114,135.59	-71,465.00
Fund: 189 - #6 HUD LEAD GRANT					
Revenue	28,534.61	76,088.00	31,899.19	-44,188.81	76,088.00
Expense	16,457.31	187,937.00	44,733.76	143,203.24	187,937.00
Total Fund: 189 - #6 HUD LEAD GRANT:	12,077.30	-111,849.00	-12,834.57	99,014.43	-111,849.00
Fund: 190 - 911 SURCHARGE					
Revenue	0.00	47,035.00	47,035.11	0.11	47,035.00
Expense	0.00	47,499.00	47,499.38	-0.38	47,499.00
Total Fund: 190 - 911 SURCHARGE:	0.00	-464.00	-464.27	-0.27	-464.00
Fund: 200 - GO BONDS DEBT FUND					
Revenue	1,145,885.29	4,172,148.00	4,171,861.12	-286.88	4,172,148.00
Expense	0.00	4,113,282.00	4,112,485.00	797.00	4,113,282.00
Total Fund: 200 - GO BONDS DEBT FUND:	1,145,885.29	58,866.00	59,376.12	510.12	58,866.00

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Account Type	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
Fund: 300 - CIP COLLECTION FUND					
Revenue	5,689.84	583,706.00	584,299.07	593.07	583,706.00
Expense	242,645.02	752,929.00	631,211.13	121,717.87	752,929.00
Total Fund: 300 - CIP COLLECTION FUND:	-236,955.18	-169,223.00	-46,912.06	122,310.94	-169,223.00
Fund: 310 - FEDERAL STREET GRANTS					
Revenue	0.00	92,579.00	92,578.80	-0.20	92,579.00
Expense	0.00	25,595.00	25,594.54	0.46	25,595.00
Total Fund: 310 - FEDERAL STREET GRANTS:	0.00	66,984.00	66,984.26	0.26	66,984.00
Fund: 311 - RISE STREET GRANTS					
Revenue	0.00	98,178.00	98,178.29	0.29	98,178.00
Total Fund: 311 - RISE STREET GRANTS:	0.00	98,178.00	98,178.29	0.29	98,178.00
Fund: 312 - AIRPORT PROJECT FUND					
Revenue	0.00	179,143.00	124,986.90	-54,156.10	179,143.00
Expense	0.00	73,767.00	23,767.15	49,999.85	73,767.00
Total Fund: 312 - AIRPORT PROJECT FUND:	0.00	105,376.00	101,219.75	-4,156.25	105,376.00
Fund: 320 - SPECIAL ASSESSMENT PROJECTS					
Revenue	0.00	10,000.00	14,445.00	4,445.00	10,000.00
Total Fund: 320 - SPECIAL ASSESSMENT PROJECTS:	0.00	10,000.00	14,445.00	4,445.00	10,000.00
Fund: 340 - BIKE PATH PROJECT FUND					
Revenue	169,411.27	321,680.00	424,313.22	102,633.22	321,680.00
Expense	13,089.00	262,143.00	277,268.48	-15,125.48	262,143.00
Total Fund: 340 - BIKE PATH PROJECT FUND:	156,322.27	59,537.00	147,044.74	87,507.74	59,537.00
Fund: 341 - TREES FOREVER PROJECT					
Revenue	5,028.57	12,935.00	13,435.38	500.38	12,935.00
Expense	0.00	8,050.00	7,444.93	605.07	8,050.00
Total Fund: 341 - TREES FOREVER PROJECT:	5,028.57	4,885.00	5,990.45	1,105.45	4,885.00
Fund: 350 - GO BONDS CAPITAL PROJECTS					
Revenue	30.40	100.00	212.06	112.06	100.00
Total Fund: 350 - GO BONDS CAPITAL PROJECTS:	30.40	100.00	212.06	112.06	100.00
Fund: 354 - POLICE & FIRE STATIONS					
Revenue	5,733.16	160,000.00	175,154.66	15,154.66	160,000.00
Expense	543,210.80	12,072,131.00	9,200,450.46	2,871,680.54	12,072,131.00
Total Fund: 354 - POLICE & FIRE STATIONS:	-537,477.64	-11,912,131.00	-9,025,295.80	2,886,835.20	-11,912,131.00
Fund: 355 - 2015 GO BONDS (D&D)					
Revenue	1,860.83	484,745.00	492,488.25	7,743.25	484,745.00
Expense	63,260.77	120,000.00	71,305.96	48,694.04	120,000.00
Total Fund: 355 - 2015 GO BONDS (D&D):	-61,399.94	364,745.00	421,182.29	56,437.29	364,745.00
Fund: 356 - 2016 BONDS - STREET PROJECTS					
Revenue	0.00	12,533.00	12,532.40	-0.60	12,533.00

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Expense	0.00	12,533.00	12,532.40	0.60	12,533.00
Total Fund: 356 - 2016 BONDS - STREET PROJECTS:	0.00	0.00	0.00	0.00	0.00
Fund: 357 - 2018 CY STREET PROJECTS					
Revenue	337,320.74	110,000.00	342,335.65	232,335.65	110,000.00
Expense	337,320.74	105,000.00	342,320.74	-237,320.74	105,000.00
Total Fund: 357 - 2018 CY STREET PROJECTS:	0.00	5,000.00	14.91	-4,985.09	5,000.00
Fund: 381 - 2019 CY STREET, SIDEWALK, PARKING PROJECTS					
Revenue	31,003.46	2,468,566.00	2,465,527.78	-3,038.22	2,468,566.00
Expense	44,175.41	164,535.00	133,861.26	30,673.74	164,535.00
Total Fund: 381 - 2019 CY STREET, SIDEWALK, PARKING PROJECTS:	-13,171.95	2,304,031.00	2,331,666.52	27,635.52	2,304,031.00
Fund: 383 - COLISEUM REMODEL					
Revenue	31,589.11	376,533.00	510,137.94	133,604.94	376,533.00
Expense	1,290.13	72,432.00	14,664.94	57,767.06	72,432.00
Total Fund: 383 - COLISEUM REMODEL:	30,298.98	304,101.00	495,473.00	191,372.00	304,101.00
Fund: 392 - TIF DISTRICT III CAP PROJECTS					
Revenue	15,930.74	0.00	15,930.74	15,930.74	0.00
Total Fund: 392 - TIF DISTRICT III CAP PROJECTS:	15,930.74	0.00	15,930.74	15,930.74	0.00
Fund: 393 - TIF DISTRICT IV CAP PROJECTS					
Revenue	146,510.31	163,250.00	146,510.31	-16,739.69	163,250.00
Expense	13,772.25	163,250.00	38,638.81	124,611.19	163,250.00
Total Fund: 393 - TIF DISTRICT IV CAP PROJECTS:	132,738.06	0.00	107,871.50	107,871.50	0.00
Fund: 395 - ECONOMIC DEVELOPMENT PROJECT FUND					
Revenue	125,360.16	88,517.00	125,396.11	36,879.11	88,517.00
Expense	6,110.60	88,517.00	125,396.11	-36,879.11	88,517.00
Total Fund: 395 - ECONOMIC DEVELOPMENT PROJECT FUND:	119,249.56	0.00	0.00	0.00	0.00
Fund: 610 - WATER POLLUTION CONTROL					
Revenue	219,767.46	11,000.00	5,362,800.03	5,351,800.03	11,000.00
Expense	231,477.48	6,634,517.00	5,376,373.79	1,258,143.21	6,634,517.00
Total Fund: 610 - WATER POLLUTION CONTROL:	-11,710.02	-6,623,517.00	-13,573.76	6,609,943.24	-6,623,517.00
Fund: 611 - WPCP REVENUE					
Revenue	729,998.64	7,337,296.00	8,455,482.56	1,118,186.56	7,337,296.00
Expense	310,226.66	32.00	5,522,505.34	-5,522,473.34	32.00
Total Fund: 611 - WPCP REVENUE:	419,771.98	7,337,264.00	2,932,977.22	-4,404,286.78	7,337,264.00
Fund: 612 - WPCP REVENUE BOND FUND					
Revenue	23,478.04	3,500,032.00	101,711.70	-3,398,320.30	3,500,032.00
Expense	5,984.00	620,000.00	101,680.18	518,319.82	620,000.00
Total Fund: 612 - WPCP REVENUE BOND FUND:	17,494.04	2,880,032.00	31.52	-2,880,000.48	2,880,032.00

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Fund: 614 - WPCP CAPITAL IMPROVEMENT RSRV					
Revenue	130.10	13,000.00	17,179.90	4,179.90	13,000.00
Total Fund: 614 - WPCP CAPITAL IMPROVEMENT RSRV:	130.10	13,000.00	17,179.90	4,179.90	13,000.00
Fund: 616 - SANITARY SEWER REHAB PROJECT					
Revenue	58,609.17	0.00	58,609.17	58,609.17	0.00
Expense	0.00	5,304.00	58,609.17	-53,305.17	5,304.00
Total Fund: 616 - SANITARY SEWER REHAB PROJECT:	58,609.17	-5,304.00	0.00	5,304.00	-5,304.00
Fund: 617 - SANITARY SEWER NEW CONSTRUCTN					
Revenue	2,697.39	14,000.00	14,862.64	862.64	14,000.00
Total Fund: 617 - SANITARY SEWER NEW CONSTRUCTN:	2,697.39	14,000.00	14,862.64	862.64	14,000.00
Fund: 618 - TORNADO-WPCP					
Expense	-2,106.91	4,402.00	2,295.51	2,106.49	4,402.00
Total Fund: 618 - TORNADO-WPCP:	-2,106.91	4,402.00	2,295.51	2,106.49	4,402.00
Fund: 690 - TRANSIT OPERATING					
Revenue	132,825.29	1,184,631.00	1,120,249.16	-64,381.84	1,184,631.00
Expense	61,207.42	1,303,099.00	1,208,674.21	94,424.79	1,303,099.00
Total Fund: 690 - TRANSIT OPERATING:	71,617.87	-118,468.00	-88,425.05	30,042.95	-118,468.00
Fund: 740 - STORM SEWER UTILITY					
Revenue	118,197.66	1,487,000.00	1,426,420.02	-60,579.98	1,487,000.00
Expense	172,272.84	878,022.00	776,803.38	101,218.62	878,022.00
Total Fund: 740 - STORM SEWER UTILITY:	-54,075.18	608,978.00	649,616.64	40,638.64	608,978.00
Fund: 741 - 2016 GO STORM WATER PROJ					
Revenue	2,223.63	28,000.00	33,065.03	5,065.03	28,000.00
Expense	286,192.61	618,450.00	461,797.55	156,652.45	618,450.00
Total Fund: 741 - 2016 GO STORM WATER PROJ:	-283,968.98	-590,450.00	-428,732.52	161,717.48	-590,450.00
Fund: 742 - TORNADO - STORM/SEWER					
Expense	0.00	4,140.00	4,140.06	-0.06	4,140.00
Total Fund: 742 - TORNADO - STORM/SEWER:	0.00	4,140.00	4,140.06	-0.06	4,140.00
Fund: 750 - COMPOSTING FACILITY					
Revenue	7,669.53	68,909.00	62,688.66	-6,220.34	68,909.00
Expense	5,088.16	201,045.00	59,372.42	141,672.58	201,045.00
Total Fund: 750 - COMPOSTING FACILITY:	2,581.37	-132,136.00	3,316.24	135,452.24	-132,136.00
Fund: 751 - TORNADO - COMPOST					
Expense	0.00	523,038.00	463,058.08	59,979.92	523,038.00
Total Fund: 751 - TORNADO - COMPOST:	0.00	523,038.00	463,058.08	59,979.92	523,038.00
Fund: 760 - P&R CONCESSIONS ENTERPRISE					
Revenue	16,952.82	40,000.00	41,003.40	1,003.40	40,000.00
Expense	11,304.89	39,506.00	42,131.28	-2,625.28	39,506.00

Monthly Budget Report - Marshalltown

For Fiscal: 2018-2019 Period Ending: 06/30/2019

Account Type	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
Total Fund: 760 - P&R CONCESSIONS ENTERPRISE:	5,647.93	494.00	-1,127.88	-1,621.88	494.00
Fund: 881 - OCCUPATIONAL INSURANCE ESCROW					
Revenue	10,334.06	0.00	134,790.10	134,790.10	0.00
Expense	2,008.51	0.00	146,588.61	-146,588.61	0.00
Total Fund: 881 - OCCUPATIONAL INSURANCE ESCROW:	8,325.55	0.00	-11,798.51	-11,798.51	0.00
Fund: 884 - GROUP HEALTH INSURANCE ESCROW					
Revenue	248,786.22	0.00	2,837,564.00	2,837,564.00	0.00
Expense	245,404.20	0.00	2,897,902.01	-2,897,902.01	0.00
Total Fund: 884 - GROUP HEALTH INSURANCE ESCROW:	3,382.02	0.00	-60,338.01	-60,338.01	0.00
Fund: 886 - WORKMAN'S COMP DEDUCTIBLE FUND					
Revenue	130.13	0.00	920.75	920.75	0.00
Expense	0.00	0.00	1,000.42	-1,000.42	0.00
Total Fund: 886 - WORKMAN'S COMP DEDUCTIBLE FUND:	130.13	0.00	-79.67	-79.67	0.00
Fund: 910 - POLICE PENSION - T & A					
Revenue	1,715.01	0.00	9,673.44	9,673.44	0.00
Expense	0.00	0.00	9,673.44	-9,673.44	0.00
Total Fund: 910 - POLICE PENSION - T & A:	1,715.01	0.00	0.00	0.00	0.00
Fund: 913 - 911 COMMISION					
Revenue	164,101.68	0.00	945,425.20	945,425.20	0.00
Expense	66,690.33	0.00	991,678.88	-991,678.88	0.00
Total Fund: 913 - 911 COMMISION:	97,411.35	0.00	-46,253.68	-46,253.68	0.00
Report Total:	-579,962.86	-8,097,332.00	-354,339.54	7,742,992.46	-8,097,332.00

PRELIMINARY

Fund Summary

Fund	June Activity	YTD Budget	YTD Activity	Variance Favorable (Unfavorable)	Total Budget
001 - GENERAL FUND	303,070.45	42,431.00	205,629.12	163,198.12	42,431.00
010 - CASH FLOW RESERVE FUNC	2,753.65	183,683.00	209,630.45	25,947.45	183,683.00
030 - CAPITAL RESERVE	270,845.62	-224,501.00	12,468.96	236,969.96	-224,501.00
031 - CAPITAL RSRV-BLDG MAIN	957.12	-253,454.00	-165,769.40	87,684.60	-253,454.00
032 - CIP LARGE VEHICLE/EQUIP	0.00	106,000.00	106,000.00	0.00	106,000.00
110 - ROAD USE TAX	-57,662.79	-39,422.00	1,544,587.21	1,584,009.21	-39,422.00
112 - EMPLOYEE BENEFITS FUND	-569,218.42	196,912.00	251,088.34	54,176.34	196,912.00
117 - POLICE/FIRE RETIREMENT	-290,825.98	59,708.00	86,418.24	26,710.24	59,708.00
119 - EMERGENCY FUND	-96,881.80	0.00	0.00	0.00	0.00
121 - LOCAL OPTION SALES TAX	-1,249,582.54	-530,466.00	-342,565.55	187,900.45	-530,466.00
125 - TAX INCREMENT FINANCI	-153,343.00	-57,181.00	18,020.03	75,201.03	-57,181.00
126 - TIF-LMI	0.00	8,859.00	0.00	-8,859.00	8,859.00
130 - CITY TORT LIABILITY	292.37	5,887.00	12,131.65	6,244.65	5,887.00
132 - GRANTS-STATE/LOCAL AGE	5,032.40	-54,990.00	-44,255.66	10,734.34	-54,990.00
140 - PARK & REC DONATION FU	1,284.60	20,890.00	28,023.09	7,133.09	20,890.00
141 - MTOWN TENNIS ASSOC	6.03	20.00	42.01	22.01	20.00
142 - SOFTBALL ASSOCIATION FU	15,933.14	0.00	12,709.12	12,709.12	0.00
144 - LIVE HEALTHY IOWA	1,978.17	5,149.00	1,694.13	-3,454.87	5,149.00
145 - TORNADO GENERAL	107,313.81	-1,131,447.00	600,160.23	1,731,607.23	-1,131,447.00
146 - FEMA VALOR	-15.13	-86,605.00	-64,348.56	22,256.44	-86,605.00
147 - FEMA DEMO	30,445.57	-77,871.00	-29,608.21	48,262.79	-77,871.00
150 - COPS FAST GRANTS	15,988.23	5,599.00	930.83	-4,668.17	5,599.00
151 - DEPT OF JUSTICE GRANTS	-620.19	-20,000.00	-10,333.91	9,666.09	-20,000.00
152 - POLICE UNDESIGNATED GR	26,909.00	-15,327.00	4,458.86	19,785.86	-15,327.00
153 - POLICE DEPT DONATION FL	-373.05	-75,126.00	-56,614.35	18,511.65	-75,126.00
156 - FIRE DEPT DONATION FUNI	31.60	-15,000.00	-7,842.79	7,157.21	-15,000.00
157 - FIRE DEPT GRANTS	16.48	60.00	115.00	55.00	60.00
160 - ECONOMIC DEVELOPMENT	178.85	650.00	1,247.66	597.66	650.00
161 - SURETY DEPOSITS/SUBDIVI	37.31	185.00	260.29	75.29	185.00
170 - LIBRARY DONATION FUND	5,835.88	-11,100.00	12,887.74	23,987.74	-11,100.00
177 - SEIZED ASSETS (POLICE)	1,879.55	-875.00	1,780.45	2,655.45	-875.00
179 - OTHER COMM AND ECON I	303.24	-92,220.00	-74,075.18	18,144.82	-92,220.00
180 - HOUSING GRANTS	92.50	-16,124.00	10,381.71	26,505.71	-16,124.00
182 - #4 HUD LEAD GRANT	0.00	0.00	334.00	334.00	0.00
183 - FY 08 EDI (ECON DEV INCEN	-200.00	-640.00	-840.00	-200.00	-640.00
184 - VOUCHERS - 002, 003	-62,848.63	-71,465.00	42,670.59	114,135.59	-71,465.00
189 - #6 HUD LEAD GRANT	12,077.30	-111,849.00	-12,834.57	99,014.43	-111,849.00
190 - 911 SURCHARGE	0.00	-464.00	-464.27	-0.27	-464.00
200 - GO BONDS DEBT FUND	1,145,885.29	58,866.00	59,376.12	510.12	58,866.00
300 - CIP COLLECTION FUND	-236,955.18	-169,223.00	-46,912.06	122,310.94	-169,223.00

Monthly Budget Report - Marshalltown

For Fiscal: 2018-2019 Period Ending: 06/30/2019

310 - FEDERAL STREET GRANTS	0.00	66,984.00	66,984.26	0.26	66,984.00
311 - RISE STREET GRANTS	0.00	98,178.00	98,178.29	0.29	98,178.00
312 - AIRPORT PROJECT FUND	0.00	105,376.00	101,219.75	-4,156.25	105,376.00
320 - SPECIAL ASSESSMENT PROJ	0.00	10,000.00	14,445.00	4,445.00	10,000.00
340 - BIKE PATH PROJECT FUND	156,322.27	59,537.00	147,044.74	87,507.74	59,537.00
341 - TREES FOREVER PROJECT	5,028.57	4,885.00	5,990.45	1,105.45	4,885.00
350 - GO BONDS CAPITAL PROJEC	30.40	100.00	212.06	112.06	100.00
354 - POLICE & FIRE STATIONS	-537,477.64	-11,912,131.00	-9,025,295.80	2,886,835.20	-11,912,131.00
355 - 2015 GO BONDS (D&D)	-61,399.94	364,745.00	421,182.29	56,437.29	364,745.00
356 - 2016 BONDS - STREET PROJ	0.00	0.00	0.00	0.00	0.00
357 - 2018 CY STREET PROJECTS	0.00	5,000.00	14.91	-4,985.09	5,000.00
381 - 2019 CY STREET, SIDEWALK,	-13,171.95	2,304,031.00	2,331,666.52	27,635.52	2,304,031.00
383 - COLISEUM REMODEL	30,298.98	304,101.00	495,473.00	191,372.00	304,101.00
392 - TIF DISTRICT III CAP PROJEC	15,930.74	0.00	15,930.74	15,930.74	0.00
393 - TIF DISTRICT IV CAP PROJEC	132,738.06	0.00	107,871.50	107,871.50	0.00
395 - ECONOMIC DEVELOPMENT	119,249.56	0.00	0.00	0.00	0.00
610 - WATER POLLUTION CONTR	-11,710.02	-6,623,517.00	-13,573.76	6,609,943.24	-6,623,517.00
611 - WPCP REVENUE	419,771.98	7,337,264.00	2,932,977.22	-4,404,286.78	7,337,264.00
612 - WPCP REVENUE BOND FUN	17,494.04	2,880,032.00	31.52	-2,880,000.48	2,880,032.00
614 - WPCP CAPITAL IMPROVEM	130.10	13,000.00	17,179.90	4,179.90	13,000.00
616 - SANITARY SEWER REHAB PI	58,609.17	-5,304.00	0.00	5,304.00	-5,304.00
617 - SANITARY SEWER NEW COI	2,697.39	14,000.00	14,862.64	862.64	14,000.00
618 - TORNADO-WPCP	2,106.91	-4,402.00	-2,295.51	2,106.49	-4,402.00
690 - TRANSIT OPERATING	71,617.87	-118,468.00	-88,425.05	30,042.95	-118,468.00
740 - STORM SEWER UTILITY	-54,075.18	608,978.00	649,616.64	40,638.64	608,978.00
741 - 2016 GO STORM WATER PF	-283,968.98	-590,450.00	-428,732.52	161,717.48	-590,450.00
742 - TORNADO - STORM/SEWER	0.00	-4,140.00	-4,140.06	-0.06	-4,140.00
750 - COMPOSTING FACILITY	2,581.37	-132,136.00	3,316.24	135,452.24	-132,136.00
751 - TORNADO - COMPOST	0.00	-523,038.00	-463,058.08	59,979.92	-523,038.00
760 - P&R CONCESSIONS ENTERF	5,647.93	494.00	-1,127.88	-1,621.88	494.00
881 - OCCUPATIONAL INSURANC	8,325.55	0.00	-11,798.51	-11,798.51	0.00
884 - GROUP HEALTH INSURANC	3,382.02	0.00	-60,338.01	-60,338.01	0.00
886 - WORKMAN'S COMP DEDUC	130.13	0.00	-79.67	-79.67	0.00
910 - POLICE PENSION - T & A	1,715.01	0.00	0.00	0.00	0.00
913 - 911 COMMISSION	97,411.35	0.00	-46,253.68	-46,253.68	0.00
Report Total:	-579,962.86	-8,097,332.00	-354,339.54	7,742,992.46	-8,097,332.00

PRELIMINARY

**RESOLUTION DECLARING CERTAIN PROPERTY SURPLUS PROPERTY AND
AUTHORIZING SALE AND DISPOSAL THEREOF, STREET DEPARTMENT
MACHINERY AND EQUIPMENT AND BUS**

WHEREAS the City of Marshalltown (hereinafter referred to as the “City”), State of Iowa, is a political subdivision organized and existing under the law and the Constitution of the State of Iowa (the “State”); and

WHEREAS the City is the sole owner of the equipment listed in Section 1 which is to be declared surplus property; and

WHEREAS this surplus property should be disposed of or sold to raise additional revenue and prevent the further decline in value thereof prior to sale; and.

WHEREAS the disposal of excess property is in the best interests of the City of Marshalltown.

THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, AS FOLLOWS:

Section 1. The property listed below is hereby declared as surplus property:

Asset Id	Description	Serial Number
104	2004 FORD GOSHEN PACER II	1FDWE35574HA74297
	1986 CHEVY DUMP TRUCK	1GBG7D185DV105390
6514	CLARK FORKLIFT	K005D0158TW

Section 2. The surplus property the subject of this resolution shall be sold or disposed of in accordance with applicable Federal, State and City guidelines.

Passed this 23rd day of September, 2019, and signed this ____ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

**RESOLUTION AN AGREEMENT WITH THE MARSHALLTOWN AREA CHAMBER
OF COMMERCE FOR TOURISM AND PROMOTIONAL SERVICES**

WHEREAS, the City of Marshalltown has traditionally had an agreement with the Marshalltown Area Chamber of Commerce and Convention and Visitors Bureau for tourism services; and

WHEREAS, an organizational structure change with the Chamber of Commerce necessitated a significantly different agreement; and

WHEREAS, both the Chamber of Commerce and the City have agreed upon a stated scope of work to include services related to tourism but also those that market the entire community; and

WHEREAS, the proposed agreement is for 67 percent of hotel/motel tax revenues received and for a one-year period;

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, the attached Agreement for Tourism and Promotional Services is hereby approved and the Mayor is directed to execute the agreement.

Passed this 23rd day of September, 2019 and signed this ____ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel T.S. Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

**AGREEMENT FOR TOURISM AND PROMOTIONAL SERVICES WITH THE
MARSHALLTOWN AREA CHAMBER OF COMMERCE**

WHEREAS, the City of Marshalltown (hereinafter referred to as “City”) desires to enter into a contract to provide tourism and promotional services which effectively promote and develop the visitor experience to Marshalltown as well as services that encourage residents to attend and support community events; and

WHEREAS, the Marshalltown Area Chamber of Commerce (hereinafter referred to as “Chamber”) is capable of providing the services desired;

NOW THEREFORE BE IT RESOLVED, the parties agree to the following:

1. Scope of Work

The following scope of services are necessary and appropriate to promote and develop the visitor experience to Marshalltown:

- a. Community Calendar and Electronic Message Board
The Chamber will provide a Community Calendar in an online and mobile format and serve as the entity collecting and managing event data. The Chamber will also continue to maintain and operate the electronic message board.
- b. Marketing plan/campaign which enhances Marshalltown’s public image
The Chamber will coordinate a regional marketing campaign that focuses on the assets of the community as a whole. This should involve multiple forms of media, including television and social media. The Chamber will present a plan to the City Council and will report to the Council on any items that could be considered cost-prohibitive with the funding specified in item 2 below.
- c. Hospitality materials
The Chamber will create and distribute materials that provide information for visitors to the community.
- d. Convention and meeting services
The Chamber will work with local and out-of-town groups to provide information about the facilities available to host conventions and meetings and Marshalltown and coordinate with events occurring to ensure a positive visitor experience.
- e. Community event planning/coordination
The Chamber will work with community groups and with organizations outside of the community to assist the with coordination and planning of events that serve the broader community and benefit Marshalltown through increased visitors, hotel room stays, and general economic contributions to the community.

2. Fee for Scope of Work

For the services detailed above, the City of Marshalltown shall dedicate 67% of all hotel/motel tax received. The payments shall be made quarterly in the month following the City's receipt of the hotel/motel tax dollars from the Iowa Department of Revenue.

3. Reporting

The Chamber shall provide an annual report to the City Council no later than December 31 on its previous year's activities. The report should include:

1. A summary and analysis of the specific steps taken to perform the tasks in this contract;
2. Performance Measures. The Chamber and the City shall work together to develop performance measures which include data that measures the Chamber's success towards the scope of work. The City will assist in providing this data to the Chamber.
3. A report on the variety of specific promotion activities executed for the purpose of attracting visitors to Marshalltown. Include samples of advertising, which include family, quality of life and educational opportunities. The report should include a description of the specific promotion activities targeted at attracting visitors to Marshalltown during the fall, winter and spring. Include samples of advertising, which include family, quality of life and educational opportunities.
4. A report and analysis of the viability of new festivals and events for supporting additional tourism, including efforts the Chamber made to coordinate with other community groups on existing events.
5. A summary report of outreach efforts made by the Chamber to other organizations, businesses, and people to support the work of this contract.

4. Duration of Agreement

This agreement shall be for a one-year period beginning July 1, 2019 and end on June 30, 2020.

5. Amendment and Termination

Agreement may be terminated by either party by giving written notice only upon a finding of gross mismanagement or misappropriation of funds. In the event the hotel/motel tax is terminated by vote of the residents of the City of Marshalltown, Iowa, or by action of the Iowa Legislature, this agreement shall terminate ninety (90) days after receipt of the last tax revenues, or sooner if State law so provides.

6. Assignability

The Chamber shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement without prior written approval of the City.

7. Hold Harmless

By execution of this Agreement, the Chamber agrees to indemnify and hold harmless the City from any liability whatsoever arising under the terms of this Agreement and shall defend the City from any such claims, including payment of attorney fees and related costs.

8. Insurance

The Chamber shall maintain all necessary insurance coverage for Workers' Compensation, liability, errors and omissions and any other coverages necessary to provide the Scope of Work.

Approved and signed this ____ day of _____, 2019.

MARSHALLTOWN AREA CHAMBER OF
COMMERCE

CITY OF MARSHALLTOWN, IOWA

John Dawley
Board President

Joel T.S. Greer
Mayor

ATTEST:

Lynn Olberding
President/CEO

Shari L. Coughenour, CMC
City Clerk

**28E Agreement Between the City of Marshalltown and the Marshall County Communications
Commission for the Use of Space at 909 South Second Street Location**

WHEREAS, the Marshall County Communications Commission was created on January 16, 2018 following the adoption of a 28E agreement by the city of Marshalltown, Marshall County, the 911 Joint Services Board and the Marshall County Emergency Management Commission; and

WHEREAS, the employees and the operations of the Marshall County Communications Commission will be operating at the Marshalltown Police and Fire Department, located at 909 South Second Street in Marshalltown, Iowa; and

WHEREAS, both parties desire to maintain the existing relationship at said location because of the construction of new Police and Fire Headquarters and therefore enter into this agreement for use of facilities authorized by Iowa Code section 28E.18:

IT IS THEREFORE AGREED AS FOLLOWS:

1. The City of Marshalltown agrees to equip, furnish, operate and maintain a building for joint communications services and ancillary services. The Marshall County Communications Commission shall operate and provide 911 Communications human resources (wages and benefits) for Marshall County at the Marshalltown Police and Fire Department Headquarters located at 909 South Second Street, Marshalltown, Iowa upon occupancy and for the duration that the facility is occupied by Marshalltown Police or Fire.
2. The Marshall County Communications Commission shall pay \$1 per year as consideration for the use of space.
3. The Marshall County Communications Commission shall provide insurance coverage for all the personnel, equipment and property belonging to the Commission in use at 909 South Second Street at the following coverage levels:
 - a. Comprehensive General Liability \$ 1,000,000 per occurrence/\$2,000,000 aggregate
 - b. Worker's Compensation as required by law
 - c. Professional Liability for Errors and Omissions \$2,000,000

The Commission shall also name the City of Marshalltown as an additional insured party and include a non-waiver of governmental immunity endorsement/clause in their coverage.

4. This agreement shall remain in effect until the property at 909 South Second Street is no longer used for the operations of 911 communications in Marshall County.
5. This agreement may be canceled upon a 1 year written notice by either party to the other.

City of Marshalltown, Mayor

Steve Heggman

Marshall County Communications Commission, Chair

Bill Faltz

Marshall County 911 Service Board, Chair

Date

11-30-18

Date

11-29-2018

Date

RESOLUTION (TENTATIVE) SETTING PUBLIC HEARING FOR 28E AGREEMENT FOR LEASE OF SPACE WITH MARSHALL COUNTY COMMUNICATIONS COMMISSION OF MARSHALLTOWN, IOWA

WHEREAS there has been presented to the Marshalltown City Council a form of lease for approval by the City of Marshalltown, Iowa, and the MARSHALL COUNTY COMMUNICATIONS COMMISSION of Marshalltown, Iowa for an indefinite term from and after the 1st day of September, 2019, as per the 28E Agreement, made a part of this Resolution, for the use and occupancy by lessees of the area used to operate a joint communications services and ancillary services at 909 South Second Street, in Marshalltown, Iowa; and

WHEREAS pursuant to Section 364.7 of the Iowa Code, leases longer than three years require a public hearing; and

WHEREAS this Council has considered the terms, conditions and intended use of such room or space, together with the provisions provided for termination, and rights of inspection by the City, which is to be without cost or expense of the City for any remodeling, repair or maintenance and that such lease is in the best interest of the city.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The City of Marshalltown, Iowa, by this Tentative Resolution proposes to consent to the lease agreement with the MARSHALL COUNTY COMMUNICATIONS COMMISSION of Marshalltown, Iowa, which is incorporated and made a part of this tentative resolution, for an indefinite term from and after the 1st day of September, 2019, as per the 28E Agreement, made a part of this Resolution, for the use and occupancy by lessees of the area used to operate a joint communications services and ancillary services at 909 South Second Street:

Section 2. The lease shall be paid by the MARSHALL COUNTY COMMUNICATIONS COMMISSION without invoice and is due prior to October 31 of each year. The lease may be paid in advance without refund should the 28E Agreement be renegotiated or terminated.

Section 3. The City Clerk shall cause to be published the notice required by law, by publication once in the Marshalltown Times-Republican, a newspaper having general circulation in the City of Marshalltown, Iowa, and published at least once weekly, the publication to be not less than four (4) nor more than twenty (20) days prior to the date hereinafter fixed for public hearing concerning this matter. Said public hearing is hereby fixed the 14th day of October, 2019, at the Council meeting to commence at 5:30 PM in the Council Chambers, 10 W. State Street, Marshalltown, Iowa. Said public hearing shall convene to consider any and all comments filed with the City Clerk or made in open council meeting in response to the proposed action as recited herein, and the Council shall have authority to take final action at that time.

Passed this 23rd day of September, 2019, and signed this ___ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

RESOLUTION ADOPTING TENTATIVE RESOLUTION APPROVING 28E AGREEMENT FOR LEASE
OF SPACE WITH THE MARSHALL COUNTY COMMUNICATIONS COMMISSION OF
MARSHALLTOWN, IOWA

WHEREAS there has been presented to the Marshalltown City Council a form of lease for approval by the City of Marshalltown, Iowa, and the MARSHALL COUNTY COMMUNICATIONS COMMISSION of Marshalltown, Iowa for an indefinite term from and after the 1st day of September, 2019, as per the 28E Agreement, made a part of this Resolution, for the use and occupancy by lessees of the area used to operate a joint communications services and ancillary services, approximately 1800 square feet located at 909 South Second Street, on the southern portion of the second floor, in Marshalltown, Iowa; and

WHEREAS pursuant to Section 364.7 of the Iowa Code, the council has held a public hearing regarding the lease proposal; and

WHEREAS this Council has considered the terms, conditions and intended use of such room or space, together with the provisions provided for termination, and rights of inspection by the City and the Iowa State Highway Commission, which is to be without cost or expense of the City for any remodeling, repair or maintenance and that such lease is in the best interest of the city and should be approved.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. This Council hereby approves the attached lease agreement with the MARSHALL COUNTY COMMUNICATIONS COMMISSION of Marshalltown, Iowa, subject to the conditions of this Resolution which are made a part of that agreement, for an indefinite term from and after the 1st day of September, 2019, as per the 28E Agreement, made a part of this Resolution, for the use and occupancy by lessees of the area used to operate a joint communications services and ancillary services, approximately 1800 square feet located at 909 South Second Street, on the southern portion of the second floor, in Marshalltown, Iowa.

Section 2. Said room shall be used by the lessee for joint communications services and ancillary services and said lessee shall be responsible for any costs of maintenance, upkeep and repair which shall in no way injure or damage the interior thereof and shall at all time be subject to inspection by the City Engineer.

Section 3. In the event it becomes necessary for structural maintenance or repair, the lessees shall immediately vacate the space herein for such time as is necessary for such purposes.

Section 4. The lease shall be paid by the MARSHALL COUNTY COMMUNICATIONS COMMISSION without invoice and is due prior to October 31 of each year. The lease may be paid in advance without refund should the 28E Agreement be renegotiated or terminated.

Section 5. The City Administrator is hereby authorized to execute such lease for and on behalf of the City of Marshalltown.

Passed this ___ day of October, 2019, and signed this ___ day of October, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

NOTICE OF PUBLIC HEARING

PUBLIC NOTICE is hereby given that there is now on file in the Office of the Clerk of the CITY OF MARSHALLTOWN, IOWA, a Tentative Resolution wherein it is proposed to lease the following described property in Marshalltown, Marshall County, Iowa, described as:

The designated area used to operate a for joint communications services and ancillary services, approximately 1800 square feet located at 909 South Second Street, on the southern portion of the second floor, in Marshalltown, Iowa,

from the City of Marshalltown to the MARSHALL COUNTY COMMUNICATIONS COMMISSION. The lease period is as described in the agreement, for an indefinite amount of time, at \$1 per year, as consideration for the use of space.

The final action on the Tentative Resolution now on file will be taken at a meeting of the City Council to be held in the City Council Chambers, City Hall, 10 W State Street, on the 14th day of October, 2019, at 5:30 PM, Central Standard Time, at which time and place hearing will be had on any bids or comments made in writing or orally at said hearing to the proposed conveyance and the Council will take final action on the resolution now on file.

This notice is given as required by Section 364.7 of the Code of Iowa.

Shari L. Coughenour, City Clerk of Marshalltown Iowa.

MINUTES TO SET DATE FOR HEARING
ON ENTERING INTO A SEWER
REVENUE REFUNDING LOAN
AGREEMENT

(Sewer Revenue Refunding)

422742-30

Marshalltown, Iowa

September 23, 2019

The City Council of the City of Marshalltown, Iowa, met on September 23, 2019, at 5:30 o'clock p.m., in the Council Chambers. The Mayor presided and the roll was called showing the following members of the Council present and absent:

Present: _____

Absent: _____.

It was reported to the Council that it could be possible for the City to benefit from substantial savings by refunding two outstanding issues of sewer revenue bonds.

Council Member _____ introduced the resolution hereinafter next set out and moved its adoption, seconded by Council Member _____; and after due consideration thereof by the Council, the Mayor put the question upon the adoption of the said resolution and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION NO 2019-241

Resolution to fix a date for a public hearing on proposal to enter into a Sewer Revenue Refunding Loan Agreement and to borrow money thereunder in a principal amount not to exceed \$5,100,000

WHEREAS, the City of Marshalltown (the “City”), in Marshall County, State of Iowa, did heretofore establish a Municipal Sanitary Sewer System (the “Utility”) in and for the City which has continuously supplied sanitary sewer service in and to the City and its inhabitants since its establishment; and

WHEREAS, the management and control of the Utility are vested in the City Council (the “Council”) and no board of trustees exists for this purpose; and

WHEREAS, pursuant to a prior resolution of the Council, the City issued its \$4,985,000 Sewer Revenue Improvement and Refunding Bond, Series 2012, dated May 8, 2012 (the “Series 2012 Bond”), a portion of the principal of which remains outstanding; and

WHEREAS, pursuant to a prior resolution of the Council, the City issued its \$5,500,000 Sewer Revenue Bonds, Series 2014, dated June 26, 2014 (the “Series 2014 Bonds”), a portion of which remain outstanding; and

WHEREAS, pursuant to the resolutions authorizing the issuance of the Series 2012 Bond and the Series 2014 Bonds, the City reserved the right to call the outstanding principal of the Series 2012 Bond and of the Series 2014 Bonds for prepayment prior to maturity on June 1, 2017 or any date thereafter; and

WHEREAS, the City now proposes to enter into a Sewer Revenue Refunding Loan Agreement (the “Agreement”) and to borrow money thereunder in a principal amount not to exceed \$5,100,000, pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of paying the costs, to that extent, of refunding the outstanding principal of the Series 2012 Bond and of the Series 2014 Bonds, and it is necessary to fix a date of meeting of the Council at which it is proposed to take action to enter into the Agreement and to give notice thereof as required by such law;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Marshalltown, Iowa, as follows:

Section 1. This City Council shall meet on October 14, 2019, in the Council Chambers, at 5:30 o'clock p.m., at which time and place a hearing will be held and proceedings will be instituted and action taken to enter into the Agreement.

Section 2. The City Clerk is hereby directed to give notice of the proposed action on the Agreement setting forth the amount and purpose thereof, the time when and place where the said meeting will be held, by publication at least once, not less than four (4) and not more than twenty (20) days before the meeting, in a legal newspaper which has a general circulation in the City. The notice shall be in substantially the following form:

NOTICE OF PROPOSED ACTION TO INSTITUTE
PROCEEDINGS TO ENTER INTO A LOAN AGREEMENT IN A PRINCIPAL AMOUNT
NOT TO EXCEED \$5,100,000

(SEWER REVENUE REFUNDING)

The City Council of the City of Marshalltown, Iowa, will meet on October 14, 2019, in the Council Chambers, at 5:30 o'clock p.m., for the purpose of instituting proceedings and taking action to enter into a sewer revenue refunding loan agreement (the "Agreement") and to borrow money thereunder in a principal amount not to exceed \$5,100,000, for the purpose of paying the costs, to that extent, of refunding the outstanding principal of the City's Sewer Revenue Improvement and Refunding Bond, Series 2012 and the outstanding principal of the City's Sewer Revenue Bonds, Series 2014.

The Agreement will not constitute a general obligation of the City, nor will it be payable in any manner by taxation but, together with the City's outstanding Sewer Revenue Bonds, Series 2013, dated June 18, 2013; and Sewer Revenue Bonds, Series 2015, dated August 13, 2015; and any additional obligations of the City as may be hereafter issued and outstanding from time to time ranking on a parity therewith, will be payable solely and only from the Net Revenues of the Municipal Sanitary Sewer System of the City.

At that time and place, oral or written objections may be filed or made to the proposal to enter into the Agreement. After receiving objections, the City may determine to enter into the Agreement, in which case, the decision will be final unless appealed to the District Court within fifteen (15) days thereafter.

By order of the City Council of the City of Marshalltown, Iowa.

Shari Coughenour
City Clerk

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved September 23, 2019

Mayor

Attest:

City Clerk

• • • •

On motion and vote, the meeting adjourned.

Mayor

Attest:

City Clerk

ATTESTATION CERTIFICATE:

STATE OF IOWA

COUNTY OF MARSHALL

CITY OF MARSHALLTOWN

SS:

I, the undersigned, City Clerk of the City of Marshalltown, do hereby certify that attached hereto is a true and correct copy of the proceedings of the City Council relating to fixing a date for hearing on the City Council's proposal to take action in connection with a Sewer Revenue Refunding Loan Agreement.

WITNESS MY HAND this _____ day of _____, 2019.

City Clerk

OUTSTANDING DEBT CERTIFICATE:

STATE OF IOWA

COUNTY OF MARSHALL

SS:

CITY OF MARSHALLTOWN

I, the undersigned, City Clerk of the City of Marshalltown, Iowa (the “City”), do hereby certify that the City has no bonds or other obligations of any kind now outstanding which are secured by and payable from the revenues derived from the operation of the Municipal Sanitary Sewer System (the “Utility”), except as follows:

<u>Date</u>	<u>Type</u>	<u>Principal Amount Outstanding</u>	<u>Maturity</u>
May 8, 2012	Sewer Revenue Improvement and Refunding Bond	\$ 1,060,000	June 1, 2027
June 18, 2013	Sewer Revenue Bonds	\$ 2,426,000	June 1, 2028
June 26, 2014	Sewer Revenue Bonds	\$ 3,921,000	June 1, 2029
August 13, 2015	Sewer Revenue Bonds	\$,4,602,000	June 1, 2030

(Attach here a separate sheet listing any other outstanding obligations of the City secured by and payable from the revenues of the Utility excluding the proposed issue.)

WITNESS MY HAND this _____ day of _____, 2019.

City Clerk

PUBLICATION CERTIFICATE:

STATE OF IOWA

COUNTY OF MARSHALL

CITY OF MARSHALLTOWN

SS:

I, the undersigned, City Clerk of the City of Marshalltown, do hereby certify that pursuant to the resolution of its City Council fixing a date of meeting at which it is proposed to hold a hearing and take action to enter into a sewer revenue refunding loan agreement, the notice, of which the printed slip attached to the publisher's affidavit hereto attached is a true and complete copy, was published on the date and in the newspaper specified in such affidavit, which newspaper has a general circulation in the City.

WITNESS MY HAND this _____ day of _____, 2019.

City Clerk

(Attach here the publisher's original affidavit with clipping of the notice, as published.)

September 18, 2019

Shari Coughenour
City Clerk/City Hall
24 North Center Street
Marshalltown, Iowa 50158-4912

Re: \$5,100,000 Sewer Revenue Refunding Loan Agreement
File No. 422742-30

Dear Shari:

Based on a request I received today from Maggie Burger, I have prepared and enclose proceedings that may be used by the Marshalltown City Council on September 23 to set October 14 as the date for a hearing on the proposal to enter into a Sewer Revenue Refunding Loan Agreement (the "Agreement"). The documents enclosed include the following items:

1. Resolution fixing the date of meeting at which it is proposed to take action to enter into the Agreement. The form of notice is set out in Section 2 of the resolution.
2. Attestation Certificate with respect to the validity of the transcript.
3. Outstanding Debt Certificate with respect to the outstanding debt of the Sewer Utility.
4. Publication Certificate with respect to publication of the notice, to which must be attached the publisher's affidavit of publication with a clipping of the notice as published.

The notice must be published at least once, not less than four (4) and not more than twenty (20) days before the meeting date set for the hearing, in a legal newspaper which has a general circulation in Marshalltown. As soon as the notice appears in the newspaper, please have a copy emailed to me or faxed to our office at (515) 283-1060.

Please return one fully executed copy of these proceedings to us as soon as they are available and call me if you have questions.

Very truly yours,

Robert E. Josten

cc via email: Diana Steiner
Jessica Kinser
Maggie Burger

Date: September 19, 2019

To: City of Marshalltown Mayor & City Council

From: Speer Financial, Inc.

Re: Current Refunding of Series 2012 and 2014 Sewer Revenue Bonds

The City issued Sewer Revenue Bonds in 2012 and 2014 through private placement with a bank purchasing the securities. Those issuances had low cost of issuance; avoiding the cost of a rating and no requirement for a debt service reserve fund. The outstanding interest rate on the 2012 bonds is 2.58% and the rate on the 2014 bonds is 2.90%.

With current interest rates dropping significantly this late summer and two rate cuts by the Federal Reserve the 2012 and 2014 refunding show a positive net savings. The net savings if figured after the new cost of issuance is included, so this is a true savings. The estimated savings is \$165,241 with a net present value Savings of 3.03%. Speer typically uses a threshold of approximately 2.25% to recommend a refunding, so this exceeds that amount.

The Sewer Revenue bonds are paid fully with sewer revenues of the Utility so the savings would reflect back to the Utility and would not have anything to do with the City's debt service levy on property taxes. We are recommending this refunding be done in "uniform" fashion which refunds the existing debt to mature on the same maturity schedule, with lower interest rates.

We are assuming today's interest rates may range from a 1.90% to 2.00% and we propose working with Piper Jaffray as the placement agent, which is who Speer and the City originally worked with on the 2012 and 2014 bonds. Piper does not own the current debt, they will act as a placement agent, per federal regulation, in this transaction. We are recommending another placement to keep the costs and constraints on this revenue debt minimal. We did analyze the 2013 Sewer Revenue debt but there is no savings at this time.

Speer is recommending at this time that the City proceed forward with the necessary steps of setting a date of public hearing and holding a public hearing so that when we feel the rates are at the lowest level we can work quickly to secure the refunding.

RESOLUTION APPROVING CONTRACT CHANGE ORDER #1 FOR THE PHASE 1
IOWA RIVER AND LOWER LINN CREEK LEVEE IMPROVEMENTS PROJECT #
29113005
AN INCREASE OF \$145,400.00

WHEREAS the City of Marshalltown, Iowa, has heretofore entered into a contract with HR Green, for the labor and material for the Phase 1- Iowa River and Lower Linn Creek Levee Improvements Project #29113005; and

WHEREAS an increase is requested for additional items to complete the project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section1. That the contract Change Order #1 for Phase 1-Iowa River and Lower Linn Creek Levee Improvements Project, in the increased amount of \$145,400.00 is hereby accepted and approved.

Passed this 23rd day of September 2019, and signed this _____ day of _____, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk



**HR GREEN, INC.
PROFESSIONAL SERVICES AGREEMENT AMENDMENT NO. 1**

THIS AMENDMENT, made this _____ day of _____, 2019 by and between the City of Marshalltown, Iowa (hereafter "CLIENT"), and HR GREEN, INC. (hereafter "COMPANY"), for professional services concerning:

**Phase 1 - Iowa River and Lower Linn Creek Levee Improvements:
Section 408 Review Process**

hereby amends the original Professional Services Agreement dated November 14, 2017 as follows:

The CLIENT and COMPANY agree to amend the Scope of Services of the original Professional Services Agreement and previous amendments as follows:

See Attachment A – Scope of Services

COMPANY Project Number: 10100249.03

The CLIENT and COMPANY agree to amend other provisions of the original Professional Services Agreement and previous amendments as follows: N/A

In consideration for these services, the CLIENT AGREES to adjust the payment for services performed by COMPANY on the following basis:

- ☒ Per current rate schedule with a maximum fee to be increased by One Hundred Forty-Five Thousand Four Hundred Dollars (\$ 145,400.00)

The total authorized compensation after this Amendment, including the original Professional Services Agreement and all previous Amendments, is Two Hundred Sixty-Five Thousand Three Hundred Dollars (\$ 265,300.00).

THIS AMENDMENT is subject to all provisions of the original Professional Services Agreement.

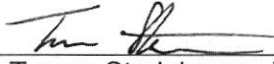
THIS AMENDMENT, together with the original Professional Services Agreement and all previous amendments represents the entire and integrated AGREEMENT between the CLIENT and COMPANY.

THIS AMENDMENT executed the day and year written above.

CITY OF MARSHALLTOWN

HR GREEN

By: _____

By  _____
Teresa Stadelmann, Vice President

29113005

ATTACHMENT A – SCOPE OF SERVICES

AMENDMENT 1

PHASE 1 IOWA RIVER & LINN CREEK LEVEE SYSTEM IMPROVEMENTS

I. BACKGROUND

Under a Professional Services Agreement (PSA) dated November 8, 2017, COMPANY has assisted CLIENT in seeking permission from the US Army Corps of Engineers (USACE) under 33 USC 408 for the Phase 1 Iowa River & Linn Creek Levee System Improvements Project. Preliminary plan drawings for the Phase 1 project were completed by COMPANY in May 2016 under a previous PSA. The Phase 1 project would improve flood protection along approximately 9,800 linear feet of levee, between stations 2000+00 and 2098+00.

II. PURPOSE OF AMENDMENT

Since the authorization of the November 8, 2017 agreement, a need for additional services has arisen. These needs have arisen due to requests by the USACE for additional hydrologic and hydraulic modeling, an Environmental Assessment, and the emergence of a potential borrow source for the levee project. The proposed borrow site requires environmental review as part of the Environmental Assessment, as well evaluation of its geotechnical suitability for the project. This amendment provides for these additional Section 408 review and geotechnical evaluation services.

III. SCOPE OF SERVICES

A. Project Administration

A.1 Develop Detailed Work Plan

Prepare written instructions for project staff, providing background, names of contacts, communications procedures, responsibilities, schedule and budget information for the project. Establish a detailed project schedule indicating critical dates, milestones, and deliverables. Prepare a detailed work plan with specific staff assignments corresponding to the schedule.

A.2 Coordination with the City

Maintain communications with the City. Assist the City in the multi-phase review process with USACE. Meet with the City staff to review progress and to discuss specific elements of the project. Prepare minutes of meetings and keep documentation of other communications. For budget purposes, it is assumed that up to two (2) meetings will be attended by two (2) staff members of the COMPANY.

A.4 Project Management

Provide on-going project management for the duration of the project consisting of interoffice administration and coordination. This will include interoffice meetings, typing of interoffice memoranda and minutes of meetings, interoffice administration and coordination of the project, and coordination, monitoring and communicating with project sub-consultants. Provide budget and schedule management. Maintain the system for

monitoring progress and expenditures to allow monthly tracking. Prepare and submit monthly progress reports outlining the following:

- Activities during the reporting period
- Activities planned for the following month
- Problems encountered and recommended solutions
- Overall status

B. Additional Section 408 Support

B.1 – Additional Hydraulic Analyses

Includes additional Iowa River and tributary HEC-RAS modeling as required by USACE reviewers, including development of additional modeling extent upstream to capture hydraulic impacts of the proposed levee raise. Also includes a required system performance analysis and impact documentation for the Section 408 public notice.

C. Additional Geotechnical Services

COMPANY will utilize Braun Intertec, Inc. as a subconsultant for the following services. The November 8, 2017 PSA included geotechnical services for a Compliance Determination Report (CDR), which is yet to be completed. At that time, a borrow source for the levee project had not yet been identified. The scope of the original agreement included only very limited assistance with identifying potential sources of borrow excavation. Extensive field investigations of actual borrow sites were not included in the original agreement. This amendment provides for additional services to evaluate a potential borrow source as indicated below.

C.1.1 Borrow Source Evaluation

The City of Marshalltown has identified a preferred source of borrow material to be used in the levee improvements. The borrow source is located along the proposed Merle Hibbs Road extension project within the corporate limits of the City. Subconsultant will evaluate the suitability of the site by means of the following analyses:

- Up to five (5) soil borings extending 15 to 20 feet below ground surface
- One (1) soil boring extending 40 feet below ground surface
- Up to 12 moisture content and Atterberg limit tests
- Up to six (6) sieve analyses
- One (1) moisture density (Proctor) test

Results and recommendations for borrow material usage will be summarized in a brief letter report.

D. Environmental Assessment

D.1 - Field Studies

Cultural Resources

COMPANY will sub consult to Bear Creek Archeology to conduct archeological and historic studies of the project study area in accordance to the National Historic Preservation Act of 1966. The reports documenting the findings of the study will be supplied to the USACE for coordination with SHPO and tribes as determined necessary

by USACE. The cultural resources assessment will cover the immediate Phase 1 levee project footprint, plus one borrow excavation site (proposed borrow site) identified by the City that is 30 acres or less in size.

Wetlands and Waters of United States (WOUS)

COMPANY will conduct a site visit to identify and delineate wetland areas that satisfy the basic federal jurisdictional criteria for areas within the project study area and the proposed borrow site. For the delineated wetlands, COMPANY will determine wetland functions and values, vegetative cover type, and wildlife associations. COMPANY will also document WOUS in the project area and proposed borrow site including lineal feet of the waterway, watershed association, and general nature of flows. The results of the study will be documented in a wetland delineation report. The wetland delineation report will present results using methods in the 1987 Corps of Engineers Wetlands Delineation Manual and 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region. Wetland boundaries will be recorded using sub-meter accuracy GPS and drawn on high-resolution aerial photographs.

Habitat Assessment

COMPANY will review federal and state databases to identify listed species potentially located in the project study area and the proposed borrow site. COMPANY will conduct a site visit to determine if habitat supportive of the listed species is present in the project corridor and proposed borrow site. This site visit will be conducted in conjunction with the wetland delineation site visit. The results will be documented in a habitat study report. No species specific capture surveys are included as part of this scope of services.

D.2 – NEPA Documentation / Impact Analysis

Environmental Assessment (EA)

The level of effort assumes that a EA will be prepared for the project. COMPANY will conduct an impact evaluation and prepare an EA and Finding of No Significant Impact (FONSI) for the area within the project study area and the proposed borrow site that follows the requirements of the National Environmental Policy Act and USACE guidelines for preparation of environmental documents. The sections of the EA will include the following:

- Purpose and Need for Federal Action
- Alternatives Considered (*It is assumed that only one build alternative and the no build alternative will be discussed. If additional build alternatives are needed this would be considered extra work and completed by amendment.*)
- Affected Environment and Environmental Consequences
- Agency Coordination & Public Comments
- Summary and Reasons for Finding of No Significant Impact

The project study area and proposed borrow site will be evaluated for environmental impacts. The resources reviewed and discussed in the Affected Environment and Environmental Consequences section of the EA will include the following:

- Cultural Resources
- Water Quality

- Wetlands
- Parklands and Conservation Areas
- Rivers, Streams and Floodplains
- Aquatic and Wildlife Resources
- Land Use and Trends
- Environmental Justice
- Constructed Resources
- Socioeconomic Resources
- Invasive Species
- Aircraft-Wildlife Strikes
- Hazardous Substances
- Noise
- Storm Water Discharge
- Air Quality
- Site Clean Up
- Irreversible and Irrecoverable Commitment of Resources
- Adverse Effects
- Relationship Between Short-Term and Long-Term Productivity
- Cumulative Impacts

D.3 – Agency Coordination

COMPANY will coordinate with USACE and other regulatory agencies that could include U.S. Environmental Protection Agency, U.S. Fish and Wildlife Services, and the Iowa Department of Natural Resources, Marshall County, and City of Marshalltown. It is assumed that the USACE will be responsible for coordinating with the necessary tribes and the State Historic Preservation Office (SHPO). Correspondence submitted to and received from regulatory agencies and tribal coordination will be included in the EA.



Joel T.S. Greer, Mayor
Jessica Kinser, Administrator
Justin Nickel, Public Works Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5734
Fax - (641) 754-5793

DEPARTMENT OF PUBLIC WORKS

September 18, 2019

To: Mayor Joel T.S. Greer
Members of the City Council

From: Justin Nickel, P.E.
Public Works Director

Re: Amendment #1 to Engineering Services Agreement – HR Green, Inc. for engineering design services for Iowa River and Lower Linn Creek Levee Improvements (29113005)

Policy Issue: City policy requires Governing Body approval of engineering services agreements.

Recommendation: Staff recommends approving the Amendment to agreement with HR Green for engineering design services for a fee not to exceed \$145,400.

Background: The City executed a contract with HR Green for Army Corp of Engineers Section 408 review in November of 2017. This amendment to the contract will allow HR Green to perform additional services including hydraulic and hydrologic modeling, Environmental Assessment and review of potential borrow sites.

Budget Impact: The engineering costs will be funded with Storm Water utility funds.

Attachment: Agreement Amendment

cc: Jessica Kinser, City Administrator

City Council
Leon Lamer, Mike Gowdy, Sue Cahill, Al Hoop
Gabe Isom, Bill Martin, Bethany Wirin



RESOLUTION APPROVING CONTRACT CHANGE ORDER #3 FOR THE HIGH STREET
DRAINAGE IMPROVEMENTS PROJECT
AN INCREASE OF \$19,500.00

WHEREAS the City of Marshalltown, Iowa, has heretofore entered into a contract with Construct, for the labor and material for the High Street Drainage Improvement Project; and

WHEREAS an increase is requested for additional items to complete the project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section1. That the contract Change Order #3 for the High Street Drainage Improvements Project, in the increased amount of \$19,500.00 is hereby accepted and approved.

Passed this 23rd day of September 2019, and signed this _____ day of _____, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk



**BOLTON
& MENK**

Real People. Real Solutions.

1519 Baltimore Drive
Ames, IA 50010-8783

Ph: [515] 233-6100
Fax: [515] 233-4430
Bolton-Menk.com

September 10, 2019

Justin Nickel

RE: High Street Drainage Improvements
Change Order #3
Marshalltown, Iowa

Dear Justin,

Attached is change order #3 for your review and approval.

Pavement markings for crosswalks at the intersection of 4th Street and Ingledue Street will be replaced with Thermoplastic marking.

Due to a water main conflict, the storm sewer was lowered and the intakes were adjusted to grade.

The document has been signed by the Engineer and is recommended for approval at the next City Council Meeting.

Sincerely,

Bolton & Menk, Inc.

Gregory Broussard

Greg Broussard, P.E.
Project Manager

CHANGE ORDER

No. 003

PROJECT: High Street Drainage Improvements

DATE OF ISSUANCE: August 26, 2019

EFFECTIVE DATE: September 6, 2019

OWNER: City of Marshalltown

ENGINEER'S PROJECT NO. A13.114178

CONTRACTOR: Con-Struct

ENGINEER: Bolton & Menk, Inc

You are directed to make the following changes in the Contract Documents.

Description:

Pavement markings.

Storm sewer adjustments for water main conflict.

Reason for Change Order:

Crosswalk pavement markings for crosswalks at 4th and Ingledue Intersection. Adjust intake and lower storm sewer to avoid conflict with watermain.

Attachments (List of Documents Supporting Change):

See Attached

CHANGES IN CONTRACT PRICE:	CHANGES IN CONTRACT TIMES:
Original Contract Price \$1,749,100.80	Original Contract Times Substantial Completion: <u>113</u> days or dates Ready for final payment: <u> </u> days or dates
Net Changes from Change Order No. 001 to No. <u>002</u> \$14,550.00	Net changes from previous Change Orders No. <u>001</u> to No. <u>002</u> 5 days
Contract Price Prior to this Change Order \$1,763,650.80	Contract Times Prior to this Change Order Substantial Completion: <u>118</u> days or dates Ready for final payment: <u> </u> days or dates
Net Increase of this Change Order \$19,500.00	Net <u>(Increase/Decrease/No Change)</u> of this Change Order 0 days
Contract Price with all approved Change Orders \$1,783,150.80	Contract Times with all approved Change Orders Substantial Completion: <u>118</u> days or dates Ready for final payment: <u> </u> days or dates

RECOMMENDED:

By: Gregory Brumant
Engineer (Authorized Signature)

Date: 9/6/2019

APPROVED:

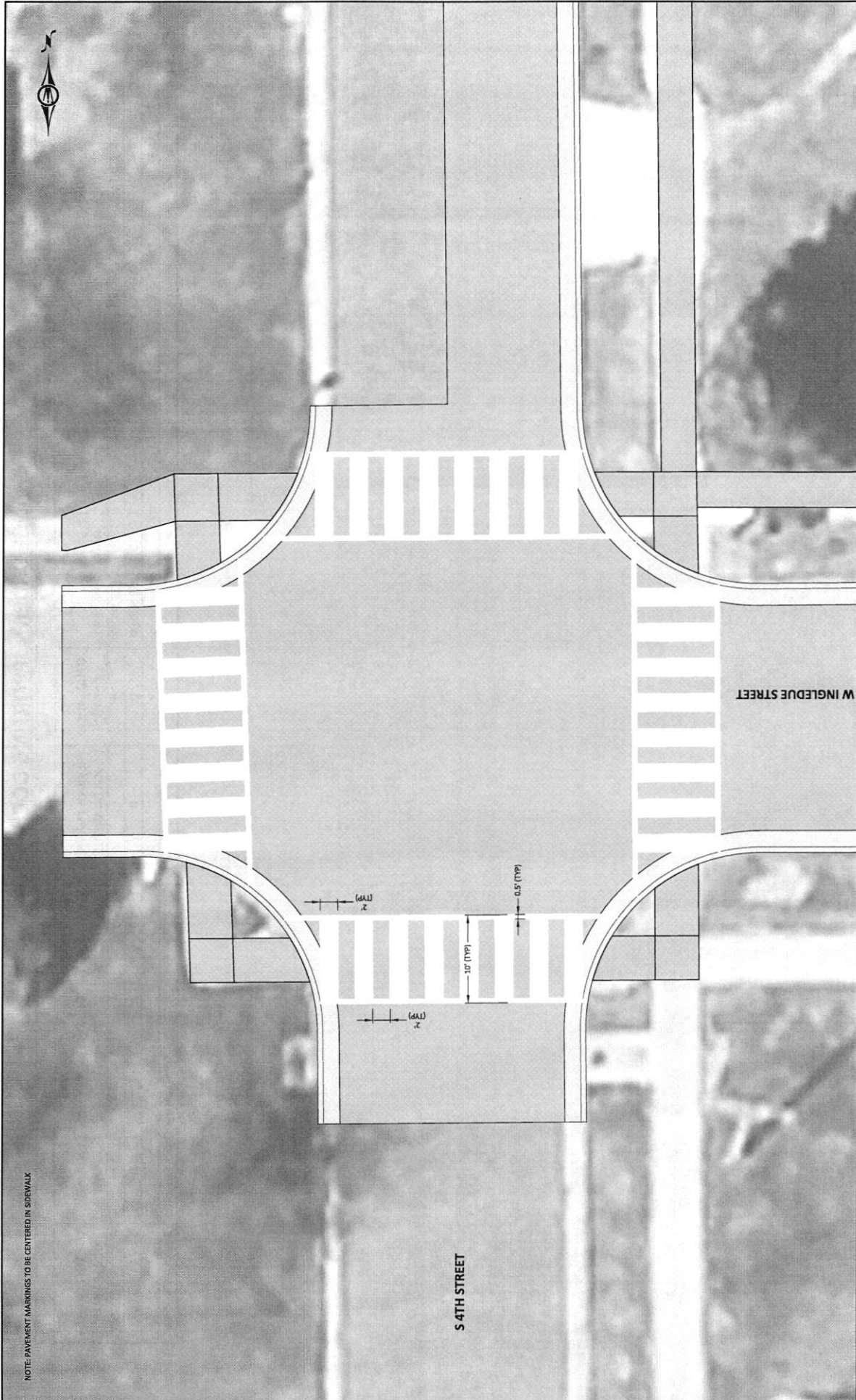
By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:

By: [Signature]
Contractor (Authorized Signature)

Date: 9/10/19



NOTE: PAVEMENT MARKINGS TO BE CENTERED IN SIDEWALK

BOLTON & MENK

1519 BALTIMORE DRIVE
AMES, IOWA 50010
Phone: (515) 233-6100
Email: info@bolton-menk.com
www.bolton-menk.com

CITY OF MARSHALLTOWN, IOWA
HIGH STREET DRAINAGE IMPROVEMENTS
PAVEMENT MARKINGS

1" = 10' SCALE

NO.	DATE	BY	CHKD	APP'D	DESCRIPTION
1	11/1/2013	CONST			

REVISED: 11/1/2013

PROJECT: HIGH STREET DRAINAGE IMPROVEMENTS
SHEET: K.01

CHANGE ORDER SUPPORTING DOCUMENTATION

CHANGE ORDER #1 -High Street Drainage Improvements										
ITEM NO	SUDAS REFERENCE ITEM	ITEM	UNIT	UNIT PRICE	ORIGINAL BID QUANTITY	PREVIOUS CHANGE ORDER QUANTITIES	CONTRACT QUANTITY PRIOR TO THIS CHANGE	CURRENT CHANGE ORDER QUANTITY CHANGE	REVISED CONTRACT QUANTITY	CURRENT CHANGE ORDER VALUE
95	8020-108-X-0	PAVEMENT MARKINGS, THERMOPLASTIC	LS	\$16,000.00	0	0	0	1.0	1.0	\$ 16,000.00
96		STORM SEWER ADJUSTMENTS	LS	\$3,500.00	0	0	0	1.0	1.0	\$ 3,500.00
Total Change Order Amount										\$ 19,500.00



Joel T.S. Greer, Mayor
Jessica Kinser, Administrator
Justin Nickel, Public Works Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5734
Fax - (641) 754-5793

DEPARTMENT OF PUBLIC WORKS

September 17, 2019

To: Mayor Joel T.S. Greer
Members of the City Council

From: Justin Nickel
Director of Public Works

Re: Change Order #3 High Street Drainage Improvements – Con-Struct, Inc for pavement markings and storm sewer adjustments due to water main conflict in the amount of \$19,500.00.

Policy Issue: City policy requires Governing Body approval of Change Orders in excess of \$25,000 aggregate amount for the project. Change Order #1 and #2 were approved by the City Engineer, totaling \$14,550.

Recommendation: Staff recommends approving the Change Order with Con-Struct for the additional work.

Background: Engineering staff requested the use of thermoplastic pavement markings for a longer lasting, more durable crosswalk marking at a cost of \$16,000. Storm sewer adjustments totaled \$3,500.

Budget Impact: There are sufficient funds to accept this change order. The adjustments of storm sewer due to water main conflict will be billed to Marshalltown Water Works

Attachment: Change Order #3

cc: Jessica Kinser, City Administrator

City Council
Leon Lamer, Mike Gowdy, Gabe Isom, Al Hoop
Bill Martin, Sue Cahill, Bethany Wirin



RESOLUTION APPROVING CONTRACT CHANGE ORDER FOR THE 2017 MANHOLE
AND POINT REPAIR PROJECT #59016002 FOR CON-STRUCT, INC
AN INCREASE OF \$53,561.50

WHEREAS the City of Marshalltown, Iowa, has heretofore entered into a contract with Con-Struct, Inc for the labor and material for the 2017 Manhole and Point Repair Project #59016002; and

WHEREAS an increase is requested for additional items to complete the project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section1. That the contract Change Order for the 2017 Manhole and Point Repair Project, in the increased amount of \$3,901,833.95 is hereby accepted and approved.

Passed this 23rd day of September 2019, and signed this _____ day of _____, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

Change Order

No. 2

Project: 2017 Manhole and Point Repair Project	Date of Contract: 5/13/2019
Owner: City of Marshalltown	Owner's Contract No.: 59016002
Engineer: FOX Engineering Associates, Inc.	Engineer's Project No.: 2407-15A
Contractor: Con-struct Inc.	Date of Issuance: 9/05/2019

The Contract Documents are modified as follows upon execution of this Change Order:

DESCRIPTIONS:

- Item 1 During installation of manhole H06-032, it was discovered after removal of concrete that there was a void under the pavement due to the deterioration of an existing 12-inch CMP storm sewer pipe to outside the limits of construction. It was determined by field staff that the storm sewer needed to be replaced.
- Add 27.5 LF of 12-inch RCP Storm Sewer at a cost of \$85/LF and a total cost of \$2,337.50
- Item 2 During installation of manhole H06-032, it was discovered after removal of concrete that an existing storm sewer manhole outside the limits of construction was composed of brick and needed to be replaced as a result of the new storm sewer replacement.
- Add a cone manhole section installation, with a cone section and casting provided by the City of Marshalltown, to replace the existing storm sewer manhole at a cost of \$2,800.00. Includes concrete collars for connection to storm sewer piping.
- Item 3 Add additional quantity to bid item 7.01 for additional pavement removal to allow the storm sewer manhole and storm sewer piping to be repaired.
- Add 31.6 SY of pavement removal and disposal at a cost of \$20/SY and a total cost of \$632.00
- Item 4 Add additional quantity to bid item 7.14 for additional composite patch pavement to allow the storm sewer manhole and storm sewer piping to be repaired.
- Add 31.6 SY of composite pavement patch at a cost of \$120/SY and a total cost of \$3,792.00
- Item 5 Add CO2 item for rerouting existing sanitary sewer services connected from the existing lampholes and sanitary sewer manholes to the existing sanitary sewer main as directed by the city and the city's representative.
- Add 50 sanitary sewer service to main, 4 and 6-inch wye connections at a cost of \$350/EA and a total cost of \$17,500.00, installed per the city specifications.
- Add 250 LF of installed 4-inch PVC SDR 23.5 sanitary sewer pipe a cost of \$30/LF and a total cost of \$7,500.00, installed per the city specifications.
- Add 400 LF of installed 6-inch PVC SDR 23.5 sanitary sewer pipe a cost of \$35/LF and a total cost of \$14,000.00, installed per the city specifications.
- Add 50 sanitary sewer connections to existing service lines at a cost of \$100/EA and a total cost of \$5,000.00.
- Quantities are estimated and will be based on final installed quantities. The total cost for Change Order No. 2 is \$53,561.50.

Attachments:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$3,848,272.45	Original Contract ☐ Working ☒ Calendar Substantial completion: June 26, 2020 Ready for final payment: July 31, 2020
☐ Increase ☐ Decrease from previously approved Change Orders: \$0.00	☒ Increase ☐ Decrease from previously approved Change Orders: Substantial completion (days): Ready for final payment (days):
Contract Price prior to this Change Order: \$3,848,272.45	Contract Times prior to this Change Order: Substantial completion: 9/25/2020 Ready for final payment: 10/30/2020
☒ Increase ☐ Decrease of this Change Order: \$53,561.50	☐ Increase ☐ Decrease of this Change Order: Substantial completion (days): Ready for final payment (days):
Contract Price incorporating this Change Order: \$3,901,833.95	Contract Times with all approved Change Orders: Substantial completion: 9/25/2020 Ready for final payment: 10/30/2020
RECOMMENDED: By: <u>[Signature]</u> Engineer (Authorized Signature) Date: <u>9/05/2019</u>	ACCEPTED: By: _____ Owner (Authorized Signature) Date: _____
	ACCEPTED: By: <u>[Signature]</u> Contractor (Authorized Signature) Date: <u>9/5/19</u>



Joel T.S. Greer, Mayor
Jessica Kinser, Administrator
Justin Nickel, Public Works Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5734
Fax - (641) 754-5793

DEPARTMENT OF PUBLIC WORKS

September 17, 2019

To: Mayor Joel T.S. Greer
Members of the City Council

From: Justin Nickel
Director of Public Works

Re: Change Order #2 Manhole and Point Repair Project – Con-Struct, Inc for storm sewer repairs and rerouting sanitary sewer services in the amount of \$53,561.50.

Policy Issue: City policy requires Governing Body approval of Change Orders in excess of \$25,000 aggregate amount for the project. Change Order #1 was approved by the City Engineer at no cost to the City.

Recommendation: Staff recommends approving the Change Order with Con-Struct for the additional work.

Background: During installation of manhole H06-032, it was discovered after removal of concrete that there was a void under the pavement due to the deterioration of an existing 12-inch CMP storm sewer pipe and an existing storm sewer manhole to outside the limits of construction. It was determined by field staff that the storm sewer needed to be replaced.

Budget Impact: There are sufficient funds to accept this change order. The adjustments of storm sewer due to water main conflict will be billed to Marshalltown Water Works

Attachment: Change Order #2

cc: Jessica Kinser, City Administrator

City Council
Leon Lamer, Mike Gowdy, Gabe Isom, Al Hoop
Bill Martin, Sue Cahill, Bethany Wirin



**RESOLUTION APPROVING AGREEMENTS FOR GENERAL ADMINISTRATION
SERVICES AND HOUSING TECHNICAL SERVICES WITH REGION 6 RESOURCE
PARTNERS FOR THE 2019 COMMUNITY DEVELOPMENT BLOCK GRANT AND
ADOPTING REQUIRED POLICIES**

WHEREAS, the City of Marshalltown applied for and was granted a \$500,000 Community Development Block Grant to assist with owner-occupied housing rehabilitation, housing reconstruction, and loan buy-down for properties and families in the area impacted by the July 2018 tornado; and

WHEREAS, the City of Marshalltown issued a Request for Proposal for Technical Services needed to fulfill grant requirements; and

WHEREAS, Region 6 Resource Partners was the only organization to respond to the RFP; and

WHEREAS, Region 6 Resource Partners is also highly experienced and qualified to provide general administration services for the grant, as outlined in the Administration Plan; and

WHEREAS, the City of Marshalltown is required to show verification of specific policies and/or adopt policies as specified by the Housing and Urban Development Department;

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA, the attached Agreements for Administration and Technical Services with Region 6 Resource Partners is hereby approved; and

BE IT FURTHER RESOLVED, the Administration Plan included with this resolution is hereby approved; and

BE IT FURTHER RESOLVED, the Mayor is hereby authorized to sign the authorizations and policies as listed below:

- Certification of Compliance for CDBG Procurement Standards
- Code of Conduct
- Policy on the Prohibition of the Use of Excessive Force
- Affirmative Fair Housing Policy
- Residential Anti-Displacement and Relocation Assistance Plan

Passed this 23rd day of September, 2019 and signed this ____ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel T.S. Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

OWNER OCCUPIED REHABILITATION ACTIVITY

ACTIVITY	# of Homes	AMT/HOME	TOTAL	CDBG	CITY	OTHER LOCAL
Rehabilitate Tornado Damaged Homes	5	\$ 24,999	\$ 124,995	\$ 124,995	\$ -	\$ -
Household Relocation	5	\$ 1,000	\$ 5,000	\$ 5,000	\$ -	\$ -
Lead Based Paint Hazard Reduction	5	\$ 7,300	\$ 36,500	\$ 36,500	\$ -	\$ -
Lead Based Paint Cleaning & Testing	5	\$ 200	\$ 1,000	\$ 1,000	\$ -	\$ -
Technical Services	5	\$ 4,000	\$ 20,000	\$ 20,000	\$ -	\$ -
TOTAL REHAB		\$ 37,499	\$ 187,495	\$ 187,495	\$ -	\$ -
GENERAL ADMIN			\$ 13,120	\$ 13,120	\$ -	\$ -
TOTAL OWNER OCCUPIED REHAB			\$ 200,615	\$ 200,615	\$ -	\$ -

RECONSTRUCT HOMES AT PREVIOUS HOME SITE LOCATIONS

ACTIVITY	# of Homes	AMT/HOME	TOTAL	CDBG	CITY	OTHER LOCAL
Loan Buydown	2	\$ 60,000	\$ 120,000	\$ 120,000	\$ -	\$ -
Energy Rater	2	\$ 3,000	\$ 6,000	\$ -	\$ 6,000	\$ -
Purchase Lots	2	\$ 10,000	\$ 20,000	\$ -	\$ -	\$ 20,000
Realtor Fees	2	\$ 3,400	\$ 6,800		\$ 6,800	
Permits	2	\$ 476	\$ 952		\$ 952	
Carrying cost (interest expense)	2	\$ 10,000	\$ 20,000	\$ 20,000	\$ -	\$ -
TOTAL CONSTRUCTION		\$ 86,876	\$ 173,752	\$ 140,000	\$ 13,752	\$ 20,000
GENERAL ADMIN			\$ 11,000	\$ 11,000	\$ -	\$ -
TOTAL RECONSTRUCT			\$ 184,752	\$ 151,000	\$ 13,752	\$ 20,000

LOAN BUYDOWN - NEW CONSTRUCTION OR EXISTING HOUSING

ACTIVITY	# of Homes	AMT/HOME	TOTAL	CDBG	CITY	OTHER LOCAL
Loan Buydown	2	\$ 60,000	\$ 120,000	\$ 120,000	\$ -	
Energy Rater	2	\$ 3,000	\$ 6,000	\$ 2,505	\$ 3,495	
Purchase Lots	2	\$ 25,000	\$ 50,000	\$ -	\$ -	\$ 50,000
Realtor Fees	2	\$ 3,400	\$ 6,800		\$ 6,800	
Permits	2	\$ 476	\$ 953		\$ 953	
Carrying Cost (interest expense)	2	\$ 10,000	\$ 20,000	\$ 20,000	\$ -	
TOTAL CONSTRUCTION		\$ 101,876	\$ 203,753	\$ 142,505	\$ 11,248	\$ 50,000
GENERAL ADMIN			\$ 5,880	\$ 5,880	\$ -	
TOTAL BUYDOWN			\$ 209,633	\$ 148,385	\$ 11,248	\$ 50,000

PROJECT SUMMARY	TOTAL	CDBG	CITY	OTHER LOCAL
TOTAL CONSTRUCTION ACTIVITIES - 9 households	\$ 565,000	\$ 470,000	\$ 25,000	\$ 70,000
TOTAL GENERAL ADMINISTRATION	\$ 30,000	\$ 30,000	\$ -	\$ -
TOTAL	\$ 595,000	\$ 500,000	\$ 25,000	\$ 70,000

**AGREEMENT BETWEEN
CITY OF MARSHALLTOWN
AND
THE REGION 6 RESOURCE PARTNERS
FOR
GENERAL ADMINISTRATIVE SERVICES**

This is an AGREEMENT made as of _____, 2019, by and between the city of Marshalltown, Iowa hereinafter called the "Grantee" and the Region 6 Resource Partners, hereinafter called the "Administrator".

Grantee intends to provide general administrative for the Grantee's 2019 CDBG grant to provide owner occupied rehabilitation assistance to at least 6 homeowners.

Grantee and Administrator in consideration of mutual covenants herein agree in respect to the performance of professional administrative services by the Administrator and the payment for those services by Grantee, as set forth below.

Administrator shall serve as the Grantee's professional administration representative in those phases of the project to which this agreement applies, and will give consultation and advice to Grantee during the project's performance.

SECTION 1 - TERMS AND CONDITIONS

- 1.1 It is agreed between the parties hereto that the Grantee hereby retains and employs the Region 6 Resource Partners to perform all grant administration/management services associated with the Project, subject to the terms and conditions stated below.

SECTION 2 - PERSONNEL

- 2.1 The administrator represents that they have, or will provide all necessary personnel to perform the services provided under this contract.

SECTION 3 - SCOPE OF SERVICES

- 3.1 The administrator shall perform all mutually agreed upon and necessary services required to carry out grant administration/management as set forth in the following Scope of Services.

3.2 GENERAL PROVISIONS

- A. Assure understanding of terms and conditions of the Iowa Department of Economic Development.
- B. Identify applicable state and federal laws and regulations.
- C. Assist in complying with state and federal requirements.
- D. Assist in preparing documents, notices and certifications necessary to receive grant funds.

3.3 FINANCIAL MANAGEMENT

- A. Assist in establishing and maintaining a financial management system.
- B. Assist in preparing required financial management and accounting documents.
- C. Assist in assuring compliance with state internal control and accountability procedures.
- D. Monitor project files and associated records regularly.
- E. Assist in reviewing and monitoring project related transactions and records for compliance purposes.

- F. Assist with request for funds procedures including preparation of requests and disbursements of project funds.
- G. Assist in preparing monthly expenditure reports.
- H. Assist in executing budget amendments.

3.4 PROJECT FILES AND RECORD RETENTION

- A. Assist in establishing and maintaining project files and record retention system.
- B. Assist in assuring compliance with state project file and record retention procedures.
- C. Monitor project files and associated records regularly.
- D. Assist in preparing and submitting quarterly performance reports.
- E. Assist in executing amendments or modifications to the program schedule or project activities.
- F. Assist in meeting with Iowa Department of Economic Development personnel during on-site monitoring visits.
- G. Assist in resolving monitoring findings.

3.5 PROGRAM IMPLEMENTATION

- A. Assist in preparing proposal to obtain professional services.
- B. Assist in coordinating professional and contractor activities during conduct of project.
- C. Monitor and evaluate project, progress so as to facilitate compliance with applicable federal and state laws and regulations.
- D. Attend meetings of the Grantee governing body as needed.
- E. Represent the Grantee at meetings and with other parties or interests, as required.

3.6 PROGRAM CLOSE OUT

- A. Assist in preparing and submitting a Grantee Performance Report.
- B. Assist in securing the services of a qualified auditor to perform final program audit if required.
- C. Assist in providing information to auditor to establish compliance with financial requirements.
- D. Assist in closing out all financial documents and reports.
- E. Assist in completing and compiling all file information for audit purposes.
- F. Assist in closeout of all project files and associated records.

3.7 PROGRAM MARKETING

- A. Assist the City in marketing the funds to potential homeowners through brochures, press releases, etc...
- B. Assist the City in marketing the funds to financial institutions.

3.8 HOMEOWNER CONSULTATIONS

- A. Accept and process initial final applications.
- B. Determine based upon administrative rules which households will be assisted.
- C. Consult with homeowners on an ongoing basis to inform them about the status of their project.
- D. Consult with homeowners on their required financial commitment, the necessary rehabilitations, and the projected cost estimate for the work.
- E. Consult with homeowners chosen financial institution to arrange for private financing where possible.
- F. Ensure that homeowner signs the bid specifications, construction contracts, pay requests, and final completion report.

SECTION 4 - COMPENSATION

- 4.1 The Grantee shall compensate the Administrator for services provided under Section 3. Payment shall be due in a timely manner upon receipt of billing statements.
- 4.2 Services rendered under this contract shall be billed at the Region 6 Resource Partners fully allocated cost. The maximum reimbursement level will be \$16,000. The City of Marshalltown shall be responsible for 0% of the invoice. The CDBG program will provide 100% of invoice up to \$16,000.00.
- 4.3 The services of the Administrator shall commence on June 1, 2019, and continue until the project is completed.

SECTION 5 - TERMINATION OF CONTRACT

5.0 TERMINATION OF CONTRACT FOR CAUSE.

- A. If, through any cause, the Administrator shall fail to fulfill in timely and proper or if the Administrator shall violate any of the covenants, agreements, or stipulations of this Contract, the Grantee shall thereupon have the right to terminate this Contract by giving written notice to the Administrator of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished, documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Administrator under this Contract shall, at the option of the Grantee become its property and the Administrator shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
- B. Notwithstanding the above, the Administrator shall not be relieved of liability to the Grantee for damages sustained by the Grantee by virtue of any breach of the Contract by the Administrator; and the Grantee may withhold payments to the Administrator for the purpose until such time as the exact amount of damages due the Grantee from the Administrator is determined.

5.1 TERMINATION FOR CONVENIENCE OF THE GRANTEE:

- A. The Grantee may terminate this contract at any time by giving at least ten (10) days notice in writing to the Administrator. If the Administrator is terminated by the Grantee as provided herein, the Administrator will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Administrator, Section 5.0 of this contract shall apply.

5.2 AMENDMENTS:

- A. The Grantee may, from time to time, request changes in the scope of the services of the Administrator to be performed hereunder. Such changes, including any increase or decrease in the amount of the Administrator's compensation, which are mutually agreed upon by and between the Grantee and the Administrator, shall be incorporated as written amendments to this Contract.

5.3 ASSIGNABILITY:

- A. The Administrator shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent. Provided, however, that claims for money by the Administrator from the Grantee under this contract may be assigned to a bank, trust company, or other financial

institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Grantee.

5.4 RECORDS AND AUDITS:

- A. The Administrator shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Grantee to assure proper accounting for all project funds. These records will be made available for audit purposes to the Grantee or any authorized representative, and will be retained for five years after the expiration of this Contract unless permission to destroy them is granted by the Grantee.

5.5 FINDINGS CONFIDENTIAL:

- A. All of the reports, information, data, etc..., prepared or assembled by the Administrator under this contract are confidential and the Administrator agrees that they shall not be made available to any individual or organization without the prior written approval of the Grantee.

5.6 EQUAL EMPLOYMENT OPPORTUNITY:

- A. The Administrator will not discriminate against any employee or applicant for employment because of race, age, color, disability, religion, sex, sexual orientation or national origin. The Administrator will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, color, disability, religion, sex, sexual orientation or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Administrator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Grantee setting forth the provisions of this non-discriminatory clause.
- B. The Administrator will, in all solicitations or advertisements for employees placed by or on behalf of the Administrator; state that all qualified applicants will receive consideration for employment without regard to race, age, color, disability, religion, sex, sexual orientation or national origin.
- C. The Administrator will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The Administrator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The Administrator will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Grantee's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the Administrator's non compliance clauses of this Agreement or with any of such rules, regulations of orders, this agreement may be cancelled, terminated, or suspended in whole or in part and the Administrator may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies

- invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Administrator will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The Administrator will take such action with respect to any subcontract or purchase order as the Grantee's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Administrator becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Grantee, Department of Housing and Community Development, the Administrator, may request the United States to enter into such litigation to protect the interests of the United States.
- H. Civil Rights Act of 1964 - Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- I. Section 109 of the Housing and Community Development Act of 1974.
a. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- J. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities
a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- K. Interest of Members of a Grantee - No member of the governing body of the Grantee and no other officer, employee, or agent of the Grantee who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interests, direct or indirect, in this Contract; and the Administrator shall take appropriate steps to assure compliance.
- L. Interest of Other Local Public Officials - No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Administrator shall take appropriate steps to insure compliance.
- M. Interest of Administrator and Employees - The Administrator covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Administrator further covenants that in the performance of this Contract, no person having any such interest shall be employed.
- N. Section 504, Rehabilitation Act of 1973.
- O. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

- P. Iowa Civil Rights Act of 1965 (Iowa Executive Orders 15 and 34).
- Q. Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213).
- R. Title VIII of the Civil Rights Act of 1968, as amended.
- S. Title IV of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4831)
- T. Federal Executive Order 11063, as amended by Executive Order 12259.
- U. Lead Based Paint Poisoning Prevention Act (42 USC 4831).
- V. At any time during normal business hours and as frequently as is deemed necessary, the contractor shall make available to the Iowa Department of Economic Development, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract.

5.7 COMPLIANCE WITH LOCAL LAWS:

- A. The Administrator shall comply with all applicable laws, ordinances and codes of the state and local governments, and the Administrator shall save the Grantee harmless with respect to any damages arising from any tort done by this Administrator.

SECTION 6 - INSURANCE

- 6.1 Region 6 Resource Partners shall maintain liability, workers compensation, and errors and omissions insurance over the term of this contract.

SECTION 7 - EFFECTIVE DATE

The effective date of this Agreement is _____, 2019.

IN WITNESS WHEREOF, the parties to these present have hereunto caused these present to be executed the day and the year first mentioned above.

Joel Greer, Mayor Marshalltown, Iowa

Martin Wymore, Executive Director
Region 6 Resource Partners

ATTEST:

Shari Coughenour, City Clerk Marshalltown, Iowa

**AGREEMENT BETWEEN
CITY OF MARSHALLTOWN
AND
THE REGION 6 RESOURCE PARTNERS
FOR
HOUSING TECHNICAL SERVICES**

This is an AGREEMENT made as of _____, 2019 by and between the city of Marshalltown, Iowa, hereinafter called the "Grantee" and the Region 6 Resource Partners, hereinafter called the "Administrator".

Grantee intends to provide housing technical services for the Grantee's 2019 CDBG grant to provide owner occupied rehabilitation assistance to at least 5 homeowners.

Grantee and Administrator in consideration of mutual covenants herein agree in respect to the performance of professional administrative services by the Administrator and the payment for those services by Grantee, as set forth below.

Administrator shall serve as the Grantee's professional administration representative in those phases of the project to which this agreement applies, and will give consultation and advice to Grantee during the project's performance.

SECTION 1 - TERMS AND CONDITIONS

- 1.1 It is agreed between the parties hereto that the Grantee hereby retains and employs the Region 6 Resource Partners to perform all grant administration/management services associated with the Project, subject to the terms and conditions stated below.

SECTION 2 - PERSONNEL

- 2.1 The administrator represents that they have, or will provide all necessary personnel to perform the services provided under this contract.

SECTION 3 - SCOPE OF SERVICES

- 3.1 The administrator shall perform all mutually agreed upon and necessary services required to carry out technical services as described in the attached request for proposals. Region 6 Resource Partners shall also assist with contractor trainings and compliance with federal lead based paint standards.

SECTION 4 - COMPENSATION

- 4.1 The Grantee shall compensate the Administrator for services provided under Section 3. Payment shall be due in a timely manner upon receipt of billing statements.
- 4.2.1 Services rendered under this contract shall be performed for a lump sum of \$20,000.00. This lump sum shall be billed on a quarterly basis. The City of Marshalltown is responsible for 0% of the invoice. The CDBG program will provide 100% of the invoice up to \$20,000.00.
- 4.2.2 The services of the Administrator shall commence on June 1, 2019, and continue until the project is completed.

SECTION 5 - TERMINATION OF CONTRACT

5.0 TERMINATION OF CONTRACT FOR CAUSE.

- A. If, through any cause, the Administrator shall fail to fulfill in timely and proper or if the Administrator shall violate any of the covenants, agreements, or stipulations of this Contract, the Grantee shall thereupon have the right to terminate this Contract by giving written notice to the Administrator of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished, documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Administrator under this Contract shall, at the option of the Grantee become its property and the Administrator shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
- B. Notwithstanding the above, the Administrator shall not be relieved of liability to the Grantee for damages sustained by the Grantee by virtue of any breach of the Contract by the Administrator; and the Grantee may withhold payments to the Administrator for the purpose until such time as the exact amount of damages due the Grantee from the Administrator is determined.

5.1 TERMINATION FOR CONVENIENCE OF THE GRANTEE:

- A. The Grantee may terminate this contract at any time by giving at least ten (10) days notice in writing to the Administrator. If the Administrator is terminated by the Grantee as provided herein, the Administrator will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Administrator, Section 5.0 of this contract shall apply.

5.2 AMENDMENTS:

- A. The Grantee may, from time to time, request changes in the scope of the services of the Administrator to be performed hereunder. Such changes, including any increase or decrease in the amount of the Administrator's compensation, which are mutually agreed upon by and between the Grantee and the Administrator, shall be incorporated as written amendments to this Contract.

5.3 ASSIGNABILITY:

- A. The Administrator shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent. Provided, however, that claims for money by the Administrator from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Grantee.

5.4 RECORDS AND AUDITS:

- A. The Administrator shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Grantee to assure proper accounting for all project funds. These records will be made available for audit purposes to the Grantee or any authorized representative, and will be retained for five years after the expiration of this Contract unless permission to destroy them is granted by the Grantee.

5.5 FINDINGS CONFIDENTIAL:

- A. All of the reports, information, data, etc..., prepared or assembled by the Administrator under this contract are confidential and the Administrator agrees that they shall not be made available to any individual or organization without the prior written approval of the Grantee.

5.6 EQUAL EMPLOYMENT OPPORTUNITY:

- A. The Administrator will not discriminate against any employee or applicant for employment because of race, age, color, disability, religion, sex, sexual orientation or national origin. The Administrator will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, color, disability, religion, sex, sexual orientation or national origin. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Administrator agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Grantee setting forth the provisions of this non-discriminatory clause.
- B. The Administrator will, in all solicitations or advertisements for employees placed by or on behalf of the Administrator, state that all qualified applicants will receive consideration for employment without regard to race, age, color, disability, religion, sex, sexual orientation or national origin.
- C. The Administrator will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- D. The Administrator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The Administrator will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Grantee's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the Administrator's non compliance clauses of this Agreement or with any of such rules, regulations or orders, this agreement may be cancelled, terminated, or suspended in whole or in part and the Administrator may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Administrator will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The Administrator will take such action with respect to any subcontract or purchase order as the Grantee's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event the Administrator becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Grantee, Department of Housing and Community Development, the Administrator, may request the United States to enter into such litigation to protect the interests of the United States.

- H. Civil Rights Act of 1964 - Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, age, color, disability, religion, sex, sexual orientation or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- I. Section 109 of the Housing and Community Development Act of 1974.
 - a. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- J. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities
 - a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
 - b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- K. Interest of Members of a Grantee - No member of the governing body of the Grantee and no other officer, employee, or agent of the Grantee who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interests, direct or indirect, in this Contract; and the Administrator shall take appropriate steps to assure compliance.
- L. Interest of Other Local Public Officials - No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this contract; and the Administrator shall take appropriate steps to insure compliance.
- M. Interest of Administrator and Employees - The Administrator covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Administrator further covenants that in the performance of this Contract, no person having any such interest shall be employed.
- N. Section 504, Rehabilitation Act of 1973.
- O. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).
- P. Iowa Civil Rights Act of 1965 (Iowa Executive Orders 15 and 34).
- Q. Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213).
- R. Title VIII of the Civil Rights Act of 1968, as amended.
- S. Title IV of the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4831)
- T. Federal Executive Order 11063, as amended by Executive Order 12259.
- U. Lead Based Paint Poisoning Prevention Act (42 USC 4831).
- V. At any time during normal business hours and as frequently as is deemed necessary, the contractor shall make available to the Iowa Department of Economic Development, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract.

5.7 COMPLIANCE WITH LOCAL LAWS:

- A. The Administrator shall comply with all applicable laws, ordinances and codes of the state and local governments, and the Administrator shall save the Grantee harmless with respect to any damages arising from any tort done by this Administrator.

SECTION 6 - INSURANCE

- 6.1 Region 6 Resource Partners shall maintain liability, workers compensation, and errors and omissions insurance over the term of this contract.

SECTION 7 - EFFECTIVE DATE

The effective date of this Agreement is _____, 2019

IN WITNESS WHEREOF, the parties to these present have hereunto caused these present to be executed the day and the year first mentioned above.

Joel Greer, Mayor Marshalltown, Iowa

Martin Wymore Executive Director
Region 6 Resource Partners

ATTEST:

Shari Coughenour, City Clerk Marshalltown, Iowa

**CDBG Marshalltown
Tornado Affected Owner Occupied
Rehabilitation Program**

ADMINISTRATIVE PLAN

19-OT-005

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1.0 Goals and Objectives

The primary goals and objectives of the Marshalltown owner-occupied rehabilitation program are:

- Assist the Marshalltown owner occupied affected owners make necessary housing repairs;
- Cover gaps beyond what the Long Term Family Committee, the Region 6 Housing Trust Fund, or the Habitat for Humanity of Iowa;
- To make the community's housing stock, those constructed prior to January 1, 1978, at least temporarily "Lead Safe".

2.0 Definitions

Definitions Preface:

Several of the definitions pertaining to lead hazard reduction activity have been added and/or modified to conform with, and to be consistent with, the Iowa Department of Public Health's (IDPH's) administrative rules found at 641-Chapter 70 of the Iowa Administrative Code (IAC). For the purpose of owner-occupied rehabilitation activities performed under the Iowa Economic Development Authority's (IEDA's) Housing Fund, such definitions are verbatim with the IDPH's administrative rules except for the following definitions: "certified lead professional"; "dust-lead hazards"; "interim controls"; "hazardous lead-based paint"; "soil-lead hazard"; "standard treatments"; and "target housing". Modifications made to these definitions were made to delete any and all reference to child occupied facilities, housing specifically designated for the elderly or persons with disabilities, single room occupancy units, and multi-family activities, none of which have relevance to an owner-occupied rehabilitation activity performed under a Housing Fund award.

2.1 Adjusted (Gross) Household Income:

The definition of adjusted (gross) household income, as used for the Marshalltown owner-occupied rehabilitation program, is the same as the definition used in the U.S. Department of Housing and Urban Development's (HUD's) Section 8 Housing Assistance Payments programs (24 CFR, Part 813). Adjusted income is annual (gross) household income reduced by certain deductions for dependents, elderly households, medical expenses, childcare, and expenses related to assistance for persons with disabilities. Adjusted (gross) household income is used only to determine the level of benefit available to the community's applicants. (Refer to Section 2.2 for more detail on how an applicant's adjusted (gross) household income is used in the community's owner-occupied rehabilitation program).

2.2 Annual (Gross) Household Income:

The definition of annual (gross) household income, as used for the community's owner-occupied rehabilitation program, is the same as the definition used in HUD's Section 8 Housing Assistance Payments programs (24 CFR, Part 813). Annual (gross) household income is used in the determination of income eligibility. (Refer to Section 7.3 for more detail on how an applicant's annual (gross) household income is used in the community's owner-occupied rehabilitation program).

2.3 Certified Lead Professional:

Certified Lead Professional means a person who has been certified by the Iowa Department of Public Health as a Lead Inspector / Risk Assessor, Elevated Blood Level (EBL) Inspector / Risk Assessor, Lead Abatement Contractor, Lead Abatement Worker, Project Designer, Sampling Technician, or Lead-Safe Renovator.

2.4 Chewable Surfaces:

Means interior or exterior surfaces painted with lead-based paint or presumed to be painted with lead-based paint that a young child could mouth or chew (previously known as accessible surfaces).

2.5 Community:

Community, as used in this document, means the recipient of the IEDA's Housing Fund (i.e., funds awarded for the owner-occupied housing rehabilitation program).

2.6 De Minimis Levels:

The application of safe work practices to rehabilitation projects by the participating contractors and subcontractors is not required when rehabilitation work and/or lead hazard reduction activities do not disturb painted surfaces that total more than:

- Twenty (20) square feet on exterior surfaces;
- Two (2) square feet in any one interior room or space, or
- Ten percent (10%) of the total surface area of an interior or exterior component with a small surface area (e.g., windowsills, baseboards, trim, etc.).

2.7 Dust-Lead Hazard:

Dust-lead hazard means surface dust in residential dwellings that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on dust wipe samples. A dust-lead hazard is present in a residential dwelling when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on dust wipe samples.

2.8 Friction Surfaces:

Friction surfaces mean interior or exterior surfaces that are subject to abrasion or friction, including, but not limited to, certain window, floor and stair surfaces

2.9 Hazardous Lead-Based Paint:

Hazardous Lead-Based Paint means lead-based paint (known or presumed to be lead-based paint) that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead level; lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact; lead-based paint that is present on a chewable surface; or any other deteriorated lead-based paint in the residential dwelling or on the exterior of the residential dwelling.

2.10 Impact Surfaces:

Impact surfaces mean interior or exterior surfaces that are subject to damage by repeated sudden force, such as certain parts of doorframes.

2.11 Interim Controls:

Interim controls means a set of measures designed to temporarily reduce human exposure to lead-based paint hazards, including repairing deteriorated lead-based paint, specialized cleaning, maintenance, painting, and temporary containment. For the purpose of this program, interim controls must address all lead-based paint hazards in the assisted housing. The lead-based paint hazards must be identified by an Iowa certified lead inspector / risk assessor or an Iowa certified elevated blood lead (EBL) inspector / risk assessor through paint testing and a risk assessment.

2.12 Iowa Economic Development Authority (IEDA):

The IEDA is the primary funding source for the community's owner-occupied rehabilitation program through its federally (HUD) financed program known as the Housing Fund.

2.13 Iowa Department of Public Health (IDPH):

In Iowa, the IDPH is the regulatory agency overseeing, in part, the Lead-Based Paint Activities Training and Certification program. The IDPH also establishes minimum work practice standards for lead professional activities.

2.14 Household:

Household means one or more persons occupying a dwelling.

2.15 Lead-Based Paint:

Lead-based paint means paint or other surface coatings that contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead greater than or equal to 1.0 milligram per square centimeter or greater than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

2.16 Lead-Based Paint Hazard:

Lead-based paint hazard means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

2.17 Lead Hazard Reduction:

Lead hazard reduction means the reduction of lead-based paint hazards through interim controls or standard treatments. For purposes of this program, lead hazard reduction activities temporarily reduce lead-based paint hazard.

2.18 Lead Hazard Reduction Carrying Costs:

Lead hazard reduction carrying costs are basically administrative in nature. Lead hazard reduction carrying costs are the additional costs incurred by the community's lead professional staff to ensure that target housing is lead safe at the completion of the rehabilitation project following required clearance testing and final visual risk assessment. Lead hazard reduction carrying costs include, but are not limited to, required notifications and reports (preparation and/or conveyance), required paint testing and risk assessment (including laboratory analysis costs) or presumption of lead-based paint and/or lead-based paint hazards, visual risk assessment following the presumption of lead-based paint and/or lead-based paint hazards, revising project work write-ups to include lead hazard reduction activities and methodologies, construction oversight to ensure that safe work practices are used by participating contractors and subcontractors, and clearance testing and final visual assessment (including laboratory analysis costs).

2.19 Lead Professional:

Lead professional means a person who conducts lead abatement, lead inspections, elevated blood lead (EBL) inspections, lead hazard screens, risk assessments, visual risk assessments, clearance testing after lead abatement, or clearance testing after interim controls, paint stabilization, standard treatments, or rehabilitation pursuant to 24 CFR 35.1340.

2.20 Lead Safe:

"Lead safe" is the temporary condition of assisted housing immediately following the application of interim controls, paint stabilization, or standard treatments to temporarily reduce lead-based paint hazards and upon passing clearance testing and final visual assessment that meets the Iowa Department of Public Health (IDPH) standards. Lead hazard reduction measures incorporated into the community's target housing rehabilitation projects (including paint stabilization, interim controls, and standard treatments) only temporarily reduces exposure by the occupants of the dwelling to lead-based paint hazards. Lead hazard reduction activity does not result in the assisted property being permanently free of lead-based paint and/or lead-based paint hazards. Additionally, rehabilitation projects receiving \$5,000 or less in Housing Fund assistance (for the hard costs of rehabilitation) are not considered lead safe, only those areas (components) of the dwelling specifically addressed with, or affected by, the rehabilitation work and/or lead hazard reduction activity and has passed clearance testing and final visual assessment are considered "lead safe", not the entire dwelling.

2.21 Lead Safe Housing Regulations:

The Lead Safe Housing Regulations are technically known as the "Requirements for Notification, Evaluation, and Reduction of Lead Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule" found at 24 CFR Part 35 et.al

2.22 Median Household Income:

Median household income means the area median household income established annually by HUD, by county, and based on household size.

2.23 Paint Stabilization:

Paint Stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint from surfaces to be treated, and applying new paint or other protective coating pursuant to 24 CFR Part 35.

2.24 Paint Testing:

Paint Testing means the process of determining, by a certified lead Inspector / risk assessor or certified elevated blood lead (EBL) inspector / risk assessor, the presence or absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced pursuant to 24 CFR Part 35 et. al.

2.25 Prohibited Methods of Paint Removal:

The following methods shall not be used to remove paint that is, or presumed to be, lead-based paint:

- Open flame burning or torching;
- Machine grinding or sanding without high efficiency particulate air (HEPA) local exhaust control;
- Abrasive blasting or sandblasting without HEPA local exhaust control;
- Heat guns operating above 1,100 degrees Fahrenheit;
- Dry sanding or dry scraping (except dry scraping in conjunction with heat guns or within one foot of electrical outlets, or in areas that fall within the de minimis levels); or
- Paint stripping in poorly ventilated space using volatile strippers.

2.26 Program Funds:

Program funds, as used in this document, means HUD funds awarded to the community from the IEDA's Housing Fund, even though there may be other HUD funds or other federal funds used in the community's owner-occupied rehabilitation program.

2.27 Rehabilitation Standards:

Rehabilitation standards, for the purpose of the community's owner-occupied rehabilitation program, are Iowa's Minimum Housing Rehabilitation Standards, as revised March 2011 (applicable to all communities with a population of less than 15,000 where no other local codes, standards or ordinances exist).

2.28 Safe Work Practices:

Safe Work Practices include: a) prohibited methods of paint removal, b) occupant protection, c) work site preparation, d) worker protection, e) specialized cleaning, and f) the de minimis levels.

2.29 Standard Treatments:

Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a residential dwelling without the benefit of a lead-based paint inspection and a risk assessment. Standard treatments consist of the stabilization of all deteriorated interior and exterior paint, the provision of smooth and cleanable horizontal interior hard surfaces, the correction of dust-generating conditions (i.e., conditions causing rubbing, binding, or crushing of surfaces presumed to be coated with lead-based paint), and the treatment of bare soil to control presumed soil-lead hazards.

2.30 Soil-Lead Hazard:

Soil-Lead Hazard means bare soil on residential real property that contains total lead in excess of 400 parts per million for the drip line, mid-yard, and play areas. A soil-lead hazard is present in a drip line, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 400 parts per million.

2.31 Target Housing:

Target housing generally means any housing constructed prior to January 1, 1978. Refer to the Lead Safe Housing regulations found at 24 CFR Part 35 for exemptions.

2.32 U.S. Department of Housing and Urban Development (HUD):

HUD is the funding source for the IEDA's Housing Fund.

2.33 "Worksite" or "work area"

means an interior or exterior area where lead-based paint hazard reduction activity or renovation takes place. There may be more than one worksite in a dwelling unit

3.0 Program Scope

- 3.1 Eligible Expenditures:** Program funds are intended to be used to cover the hard costs of rehabilitation (materials, labor, and the contractor's overhead and profit) and the administrative (program implementation) costs associated with the rehabilitation of residential dwellings within the community that meet the eligibility requirements detailed in Section 4.0. Program funds are also intended to be used to make assisted target housing temporarily "lead safe" (or portions of the dwelling temporarily "lead safe" if \$5,000 or less in Housing Fund assistance is invested in the hard costs of rehabilitation) following clearance testing and final visual assessment that meets IDPH standards. Eligible expenditures of the community's program funds for this purpose include the cost of any lead hazard reduction activities (either through normal rehabilitation or separate from normal rehabilitation), lead hazard reduction carrying costs and temporary relocation costs.

Rehabilitation costs are considered eligible expenditures where the net result of such expenditures is the provision of safe, decent and sanitary housing that conforms to the rehabilitation standards referenced in Section 3.2, and, as applicable, results in housing (or portions of the housing if \$5,000 or less in assistance) that is temporarily lead safe. All construction work is expected to be of good quality and be reasonably priced.

- 3.2 Rehabilitation Standards:** *Upon completion, all dwellings financed entirely, or partially, with the community's program funds must conform to IEDA Housing Quality Standards (v.06.01.2016), as applicable (all communities that do not have locally adopted and enforced codes or standards). IEDA Housing Quality Standards apply to the dwelling and the property (as a whole) on which the dwelling is located.*

4.0 Eligibility Requirements

4.1 Applicant Requirements:

4.1.a. Owner-Occupied: *In order for an applicant to be eligible for program assistance, the applicant must occupy the property to be assisted as their principal place of residence and must own the property (i.e., be the owner of record). Ownership means:*
Holding fee simple title to the property; or
Maintaining a 99-year leasehold interest in the property.

4.1.b. Income Eligible: *In order for an applicant to be eligible for program assistance, the applicant must also be income eligible. Specifically, the applicant must have an annual (gross) household income that does not exceed eighty percent (80%) of the current area (county) median household income (MHI), based on the applicant's household size, as established by the U.S. Department of Housing and Urban Development (HUD).* The procedure for determining that an applicant meets the income eligibility requirement is detailed in Section 7.3.

4.2 Property Requirements:

4.2.a. Location of Property: *In order to be eligible for program assistance, the assisted property must be located within the area included in the project environmental documents – which is the tornado affected area. Properties located within a 100-year floodplain are not eligible for assistance.*

4.2.b. Mortgage Payments: In order to be eligible for program assistance, the assisted property owner must be current with regard to their mortgage payments.

4.2.c. Property Taxes: In order to be eligible for program assistance, the

assisted property owner must be current with regard to payment of their real estate property tax liability.

4.2.d. Utilities: In order to be eligible for program assistance, the assisted property owner must be current with regard to their utility payments associated with that property. Utilities covered under this requirement are limited to water, sanitary sewer, gas (natural gas, liquid petroleum gas, or fuel oil) and electric, and solid waste disposal. Utilities not included under this requirement are telephone, cable television (including satellite television), or internet service providers.

4.2.e. Property Insurance: In order to be eligible for program assistance, the assisted property must be covered by property insurance (homeowner's hazard and liability insurance) in an amount equal to, or greater than, the current assessed value of the property (land and buildings). The community should be named (included) on the assisted property owner's insurance policy as an additional party insured.

4.2.f. Use of the Property: *Residential properties containing businesses may be rehabilitated only where it can be clearly shown that program funds are not used to assist the business contained in or on the property. Program funds can only be used to rehabilitate (and to make lead safe, as applicable) the residential portion of the dwelling or property, not the business portion. The costs for rehabilitation of common areas and HVAC or other systems that serve both the residential and business portions of the dwelling or property must be prorated.*

Property owner funds must be used to rehabilitate the non-residential (business) portion of the dwelling or property.

The entire property must meet IEDA Housing Quality Standards before the acceptance of work is signed and final payment to the contractor. Program files must reflect the methodology used by the community for allocating the costs between the residential portion (program fund eligible costs) and the business portion (program fund ineligible costs) of the project.

4.2.g. Condition of the Property: In order to be eligible for program assistance, the property must be free of garbage; debris; refuse; building materials (those not used for the rehabilitation project); abandoned, nonoperational or junk vehicles; etc. Additionally, the property must not be in violation of any local nuisance ordinances.

The dwelling itself must be reasonably clean and sanitary; free of garbage, debris and refuse; uncluttered; and in such a state that permits reasonable

access by the community's rehabilitation technician to conduct the initial inspection and, as applicable, conduct paint testing and a risk assessment of the property, and to the contractor(s) working on the property owner's project.

4.2.h. Manufactured Homes: *Manufactured homes may be assisted with program funds only if all of the following criteria are met:*

The age of the manufactured home is 1976 or newer;

The manufactured home is permanently affixed to a site-built, permanent foundation and has had its towing hitch and running gear (including tongues, axles, brakes, wheels, lights and any other parts of the chassis that operate for the purpose of transportation) removed;

The manufactured home is installed on land also owned by the property owner to be assisted; and

The manufactured home (dwelling and site) is taxed as real estate(real property) by the community.

4.2.i. Ability to Conform to Standards: *In order to be eligible for program assistance, the dwelling (and the property as a whole) must be capable of withstanding rehabilitation. In other words, program funds may not be used unless the dwelling (and the property) can be brought into conformance with IEDA Housing Quality Standards (v.06.01.2016), as applicable.* (Refer to Section 7.8 for the details regarding structurally or financially infeasible dwellings).

5.0 Maximum Amount of Program Assistance

The maximum amount of assistance to an individual rehabilitation project from the community's program funds is \$24,999. The maximum assistance level is on the hard costs of rehabilitation (materials, labor and the contractor's overhead and profit) only, not the administrative costs, lead hazard reduction costs, lead hazard reduction carrying costs, or temporary relocation costs necessary to complete the project.

Project costs (the hard costs of rehabilitation) in excess of the maximum amount of program assistance available must come from sources other than the community's program funds.

6.0 Form of Assistance

6.1 Five-Year Receding Forgivable Loan: The form of assistance for the hard cost of rehabilitation under the community's owner-occupied rehabilitation program is a five-year receding forgivable loan. The five-year receding forgivable loan is technically a conditional grant, whereby the full amount of the five-year receding forgivable loan is completely waived (or released) over time. The conditional part of this form of assistance is that the property assisted with program funds must remain the assisted property owner's principal place of residence for a five-year

period following the completion and acceptance date of the rehabilitation project in order to be fully forgiven.

In order for the assisted property owner to receive a five-year receding forgivable loan, he or she must sign a promissory note and mortgage lien to secure the full amount of the five-year receding forgivable loan. The mortgage lien will be recorded at the County Courthouse following the completion of the rehabilitation project. The five-year receding forgivable loan bears no interest.

The term of the promissory note and mortgage lien is five years, remaining at one hundred percent of the loan amount for the first full year and decreasing twenty percent each year thereafter. The anniversary date of the promissory note and mortgage lien is the date of project completion and final acceptance. Collection of the note and mortgage lien (as may be necessary) will be accomplished according to the following schedule:

If the rehabilitated property is sold, rented, transferred, vacated or abandoned prior to the first anniversary of the project completion and acceptance date, one-hundred percent (100%) of the note and mortgage lien becomes due.

If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the first and second anniversary dates of the project completion and acceptance date, eighty percent (80%) of the note and mortgage lien becomes due.

If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the second and third anniversary dates of the project completion and acceptance date, sixty percent (60%) of the note and mortgage lien becomes due.

If the rehabilitated property is sold, rented, transferred, vacated or abandoned between the third and fourth anniversary dates of the project completion and acceptance date, forty percent (40%) of the note and mortgage lien becomes due.

If the rehabilitated property is sold, rented, transferred vacated or abandoned between the fourth and fifth anniversary dates of the project completion and acceptance date, twenty percent (20%) of the note and mortgage lien becomes due.

At the fifth anniversary date, one-hundred percent (100%) of the note and mortgage lien is forgiven. The community will release the assisted property owner's note and mortgage lien, upon written request, following completion of the five-year term.

If the assisted property becomes other than the assisted property owner's principal place of residence at any time during the five-year term (through sale, transfer, rental, or vacating or abandonment of the property), repayment of the principal amount, based on the above schedule, is immediately repayable to the community.

The community may, at its option, release the mortgage lien (and subsequent conditions of the assistance) against the assisted property when there are extenuating circumstances that would warrant or justify the community's decision to do so, regardless of the age of the forgivable loan.

The community's release of a mortgage lien would be handled on a case-by-case basis with consideration given to the individual circumstances of that assisted property owner, or their representative, seeking the release. The community will gather sufficient information necessary to support and to document the assisted property owner's inability to pay the amount owed to the community and the reason(s) for such a request. Consideration will be given to such issues as:

The value of the property at the time of the request to release the mortgage lien and its impact on the settlement of any primary mortgage debt that may exist;

Who will inherit the property (should the request to release the mortgage lien be related to the death of an assisted property owner), including other estate settlement issues; and

Any insurance settlements.

Applicants must be given the opportunity to rescind the assistance offered due to the fact that a lien, mortgage or other security interest will be filed against their property as a result of the assistance, if accepted and executed.

A five-year receding forgivable loan from the community to applicants will result in a lien, mortgage or other security interest filed against their properties. Where there are existing liens, mortgages or other security interests already on file against assisted properties (e.g., the applicant's primary mortgage), the community's program assistance security interest may be filed (recorded) in a junior position to existing liens, mortgages or security interests.

In the event of future liens, mortgages or security interests filed on an assisted property owner's property (e.g., a refinancing), the community may, at its discretion, subordinate its mortgage lien to any future liens, mortgages or other security interests.

6.2 Unsecured Program Funds Assistance: The community's five-year receding forgivable loan discussed in Section 6.1 above is a direct form of assistance financially secured through a mortgage lien filed on / against the assisted property.

The community may apply additional program funds toward individual rehabilitation projects undertaken that will not be secured against the assisted property owner's properties.

The community may incur costs for the administration of its owner-occupied rehabilitation program (general administrative costs and direct, project specific administrative costs). The community may also incur costs for lead hazard reduction activity on target housing projects (as applicable) as well as lead hazard reduction carrying costs involved in doing such activity on those projects. Program funds may also be used for costs incurred in the temporary

relocation of the occupants of assisted target housing, including their belongings, if interior rehabilitation that disturbs painted surfaces, known or presumed to be lead-based paint, and/or interior lead hazard reduction takes place.

7.0 Program Mechanics

7.1 Marketing the Program: The program will be available for cases that work through the Habitat for Humanity of Iowa intake process or the Marshalltown Long Term Family Process and need further help. Those households in that system will be contacted by mail, telephone, or case managers to complete the additional CDBG application. ***The community's marketing efforts will not discriminate in any way and will provide for equal opportunity and fair housing to all potential applicants.***

7.2 Applicant Selection Process: The community will process applications for this project through a first come first qualified basis until the funds are fully programmed.

7.3 Applicant Eligibility Determination and Verification Process: As stated in Section 4.1, ***applicants must be owner-occupants, be able to show proof of ownership, and, most importantly, they must be income eligible.***

Ownership and occupancy will be verified and documented by the community through County and/or other public records. The income verification process is more detailed and entails a specific procedure to be followed. ***Basic income eligibility is based on the applicant's annual gross household income with no adjustments or deductions subtracted. An applicant's annual gross household income is "anticipated" for the future twelve-month period based on current circumstances or known upcoming income changes, all of which must be verifiable and documented in the community's program files.***

For purposes of determining an applicant's annual gross household income, there are certain income inclusions (e.g., income from certain assets) and there are certain income exclusions (e.g., payments received for the care of foster children) that are taken into account. (Refer to HUD's "Technical Guide for Determining Income and Allowances for the HOME Program" for more detail. Recipients should refer to H 2014-15 for instructions on using a new passbook rate for income verification, found at: <http://portal.hud.gov/hudportal/documents/huddoc?id=14-15hsgn.pdf>).

The community will create and have available for use the necessary forms for verifying and documenting an applicant's annual gross household income (including verification forms for allowable income inclusions and exclusions), verification forms for documenting property eligibility requirements, and verification forms for documenting allowable deductions for determining adjusted gross household income.

The most current HUD income limitations, by county and by household size, must be used for determining and verifying income eligibility. Additional documentation may also be obtained by the community to further substantiate an applicant's annual (gross) household income (e.g., obtain a copy of the applicant's federal and/or state income tax forms from the previous tax year). ***Once an applicant's income has been verified, the verification is valid for six months only. The income verification must be updated if more than six months transpires from the initial verification and the actual commitment of the community's program funds.***

In addition to documenting that an applicant meets the ownership, occupancy, tenure and income eligibility requirements, sufficient documentation must be obtained to clearly indicate that the applicant's property also meets all applicable property eligibility requirements as described in Section 4.2.

- 7.4 Initial Property Inspection: *Following eligibility determination and verification, the community's housing rehabilitation technician will arrange with the property owner a date and time in which to conduct an initial inspection of the property to be assisted. The purpose of the initial inspection is to determine the scope of work to be accomplished with the rehabilitation of that property (i.e., the hard costs of rehabilitation). The initial inspection will be conducted in order to verify the presence and condition of all components, systems and equipment of the property owner's dwelling and property, and to identify any and all items that do not conform to IEDA Housing Quality Standards (as applicable) for inclusion in the work write-up for that dwelling.***

Typically, the initial inspection is the first opportunity to meet face-to-face with the property owner(s). If the property to be assisted is target housing, meeting with the property owner(s) at their property for the purpose of conducting the initial inspection is an ideal time to discuss lead-based paint issues likely to impact their own project. Prior to conducting the initial inspection, the community's program administrator or rehabilitation technician needs to convey the first of several required lead-based paint related notices (if this has not transpired prior to the initial inspection).

The first notification requirement for target housing is to convey general information to the property owner about the dangers of lead-based paint. The community may use either the Environmental Protection Agency's (EPA's) standard pamphlet entitled "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools" or the Iowa Department of Public Health's (IDPH's) standard pamphlet entitled "Lead Poisoning - How to Protect Iowa's Families" for this purpose.

Project files must be documented indicating that the property owner(s) has

received this required notice. The community will use either the EPA Pamphlet - "Acknowledgement of Receipt" form or the IDPH Pamphlet - "Acknowledgement of Receipt" form for this purpose. Both acknowledgement of receipt forms require the property owner's signature and date of their receipt.

Project files must be documented with a copy of the initial inspection report, signed (or initialed) and dated by the community's staff who performed the initial inspection.

- 7.5 Work Write-Up (Project Specifications):** ***From the data and information gathered by the rehabilitation technician during the initial inspection, a work write-up (or project specifications as they are often referred to) will be generated.*** The work write-up is first used by the community in the formulation of a cost estimate. The work write-up eventually becomes a part of the bid documents needed for the procurement of a contractor(s).

All work write-ups will be written so that participating contractors that bid on the community's projects will submit itemized bids (i.e., an individual line item cost for each individual line-item of the work write-up).

- 7.6 Cost Estimate:** ***The community will prepare a written cost estimate of the hard costs of rehabilitation for each project following the initial inspection and formulation of a work write-up. The community's cost estimate will also be depicted in itemized form. The community's cost estimate will be identified as such, be signed (or initialed) by the rehabilitation technician that prepared it, and dated. The community's cost estimates must be included in individual project files.***

The community's written cost estimate is formulated to initially determine if that project is financially feasible to undertake, and secondarily to ensure the cost reasonableness of contractor's bids that will be received for that project. ***The primary purpose for the community's written cost estimate is to establish the probable cost of rehabilitation (i.e., the hard costs of rehabilitation) as well as determine the basis for what needs to be accomplished to that dwelling (if target housing) from a lead hazard reduction standpoint. Lead hazard reduction requirements are based on the community's estimated cost of rehabilitation.*** (Refer to Section 7.10 for more detail on lead hazard reduction requirements).

- 7.7 Historical (Section 106) Clearance:** Assisted properties may be of historical significance. Historic preservation requirements may have an impact on the community's work write-up (the original work write-up and/or the final, revised work write-up following any lead hazard reduction need determination if target housing). ***Individual projects assisted under the community's owner-occupied***

rehabilitation program that are not covered under the Programmatic Memorandum of Understanding between the IEDA and SHPO must be submitted individually to SHPO for Section 106 review and compliance.

- 7.8 Infeasible Structures:** Depending on the extent of the rehabilitation work (the hard costs of rehabilitation) necessary to bring a dwelling and the property as a whole into conformance with IEDA Housing Quality Standards (as applicable), the community may find a dwelling that is structurally and/or financially infeasible to rehabilitate. The community will apply the following formula to all projects in order to determine if that project is feasible for rehabilitation.

“If the community’s estimated cost of rehabilitation (the hard cost of rehabilitation) is at, or greater than, fifty percent (50%) of the replacement value for that size of unit, the proposed project will be considered infeasible to rehabilitate”.

NOTE 1: The estimated cost of rehabilitation would include all sources of funds, not just the community’s program funds.

NOTE 2: Replacement value will be based on sixty-five dollars (\$65) per square foot with no basement space figured in; not including porches, breezeways, or attached garages; and with no square footage cost differential in treating second (or more) floors in the computation of total square footage.

Where a dwelling is determined infeasible for rehabilitation using the above formula, the community reserves the right to withdraw its offer of financial assistance toward that project and to its property owner.

- 7.9 Level of Benefit / Financial Commitment:** The level of benefit available to eligible applicants can best be described as the community’s preliminary projection of program funds to be applied toward a rehabilitation project (i.e., the hard costs of rehabilitation portion of the overall project only, and not including the direct administrative costs, lead hazard reduction costs, lead hazard reduction carrying costs, or temporary relocation costs that may be applied toward the total project).

Based on the community’s cost estimate, the after-rehabilitation value of the property will be determined and the determination will be made as to whether the applicant’s dwelling and property are feasible to rehabilitate. Using the community’s cost estimate, the community will first subtract the amount of all other sources of funds to be applied toward the rehabilitation costs of that project to arrive at the total amount of funds needed from the community’s program funds for the rehabilitation of that project.

In effect, the community can make a tentative financial commitment to the applicant for the rehabilitation work (the hard costs of rehabilitation) necessary to bring that dwelling into conformance with the applicable rehabilitation standards. The actual costs of rehabilitation, and from what sources of funds rehabilitation costs will be covered, may need to be reevaluated following the procurement of a contractor(s) when the actual rehabilitation cost of the project is known. The

community's focus at this point is only on the rehabilitation costs (i.e., those that will be secured against the assisted property owner's property).

7.10 Target Housing—Lead Hazard Reduction: *All target housing properties assisted with the community's program funds must comply with HUD's Lead Safe Housing Regulations. All lead based paint hazards must be identified and subsequently addressed (reduced) in target housing assisted with the community's program funds.* Lead hazard reduction activity will be conducted in conjunction and/or in combination with the rehabilitation work determined from the community's initial inspection and included in a final, revised work write-up prior to the procurement of a contractor(s). *All assisted target housing (i.e., the entire dwelling and the property as a whole) with an assistance investment greater than \$5,000 must be made at least temporarily "lead safe" at the conclusion of clearance testing and final visual assessment.*

The determination of lead hazard reduction need is based on (and directly tied to) the community's estimated cost of rehabilitation for that project (the hard costs of rehabilitation). This determination is first based on the amount of program funds (and/or other HUD funds) to be used for rehabilitation, and secondly, based on the actual approach the community takes to physically determine the lead hazard reduction need (i.e., paint testing and risk assessment or the presumption of lead-based paint).

For target housing projects where the estimated cost of rehabilitation is \$5,000 or less in program funds (and/or other HUD funds), lead hazard

reduction need is determined by testing all painted surfaces that will be disturbed by the rehabilitation activity. Painted surfaces found to contain lead-based paint (those that will be disturbed during rehabilitation) must be repaired if deteriorated paint or lead-based paint hazards are present. The work items specified in the community's final, revised work write-up (rehabilitation and lead hazard reduction activity combined) for the repair of such painted surfaces to be disturbed will include, or compensate for, the lead hazard reduction activity needed.

The community may presume that assisted target housing in this estimated rehabilitation cost range contains lead-based paint. Where lead-based paint is presumed to be present, testing of painted surfaces is not required. Where lead-based paint is presumed to be present, all painted surfaces disturbed during rehabilitation must be repaired and the lead hazard reduction need determined accordingly by the community's certified lead professional.

For target housing projects where the estimated cost of rehabilitation is between \$5,001 and \$24,999 in program funds (and/or other HUD funds), lead hazard reduction need is determined by testing of painted surfaces to be disturbed by the rehabilitation activity and conducting a risk assessment of

the entire property. From the paint testing and risk assessment results, all painted surfaces containing lead-based paint that will be disturbed during rehabilitation will be identified and all lead-based paint hazards (including dust-lead hazards and soil-lead hazards) will be identified.

Work items specified to reduce the lead-based paint hazards identified from the required paint testing and the risk assessment will be considered as “interim controls”. The interim controls specified in the community’s final, revised work write-up, in addition to the rehabilitation work items, will include, or compensate for, the lead hazard reduction activity (interim controls) needed.

Communities may also presume that assisted target housing in this estimated rehabilitation cost range contains lead-based paint. Where lead based paint is presumed to be present, testing of painted surfaces and conducting a risk assessment is not required. Work items specified to reduce lead-based paint hazards presumed to contain lead-based paint will be considered as “standard treatments”. The standard treatments specified in the final, revised work write-up, in addition to the rehabilitation work items, will include, or compensate for, the lead hazard reduction activity (standard treatments) needed.

The determination of all lead hazard reduction activity needed to make a project lead safe following clearance testing results and final visual assessment that meet IDPH standards is first based on the amount of

program funds (and/or other HUD funds) to be applied toward the hard cost of rehabilitation, and secondly, based on the approach the community takes for making this determination (i.e., paint testing and risk assessment or the presumption of lead-based paint).

Once all lead hazard reduction activity to be accomplished has been determined by the Community’s certified lead professional, the community will compare these work items to its original initial inspection and work write-up that defines the rehabilitation work items to be accomplished. It is possible that one or more of the rehabilitation work items specified will effectively reduce or eliminate an identified (known or presumed) lead-based paint hazard(s). Where lead-based paint hazards will not be addressed with the specified rehabilitation work items, additional lead hazard reduction work items (i.e., interim controls or standard treatments) will need to be added to the rehabilitation work items. A final, revised work write-up is then generated that incorporates all rehabilitation work items and all lead hazard reduction work items. This final, revised work write-up will then be used for the procurement of a contractor(s) to do the work.

The community must retain all original work write-ups and cost estimates

and include them in the respective project files. Individual project cost estimates of the rehabilitation work items specified in the original work write ups are the basis for determining what needs to be accomplished from a lead hazard reduction standpoint for each project.

The determination of lead-based paint hazards, regardless of the estimated cost of rehabilitation, can only be accomplished by certain Iowa-certified lead professionals. Paint testing and risk assessments can only be accomplished by lead professionals certified in Iowa as Lead Inspectors / Risk Assessors or Elevated Blood Lead (EBL) Inspectors / Risk Assessors. The determination of presuming that lead-based paint is present in target housing may be made by lead professionals certified in Iowa as Sampling Technicians or Lead Inspectors / Risk Assessors or Elevated Blood Lead (EBL) Inspectors / Risk Assessors. The required clearance testing and final visual assessment that follows completion of projects where lead hazard reduction activity occurred (regardless of the estimated cost of rehabilitation) may be conducted by any of the certified lead professionals referenced above. The community will employ all necessary Iowa-certified lead professionals.

There are notification requirements associated with the identification of lead-based paint hazards in target housing assisted with program funds (and/or other HUD funds).

Where the community conducts paint testing and risk assessments to determine the lead hazard reduction need, the community must convey to

the assisted property owner the “Notification of Lead- Based Paint Inspection and Risk Assessment” form. This notification must be conveyed to the assisted property owner no later than fifteen days after the testing results have been received by the community (if applicable) and the evaluation (risk assessment) has been completed. A Lead Based Paint and Risk Assessment report must be prepared in accordance with the requirements found in the IDPH’s 641-Chapter 70 IAC.

Where the community presumes that lead-based paint and/or lead- based paint hazards exist in assisted target housing, the community must convey to the assisted property owner the “Notification That Lead-Based Paint or Lead-Based Paint Hazards are Presumed to be Present” form. This notification must be conveyed to the assisted property owner no later than fifteen days after the presumption determination was made. A Visual Risk Assessment report must be prepared in accordance with the requirements found in the IDPH’s 641-Chapter 70 IAC.

Any rehabilitation work that disturbs painted surfaces (i.e., paint that is known or presumed to be lead-based paint) and any other lead hazard

reduction activity not accomplished with the rehabilitation work items (excluding the allowable de minimis areas) can only be accomplished by contractors who have been trained in safe work practices.

7.11 Contractor Requirements: *In order to participate as a contractor in the community's owner-occupied rehabilitation program, the following minimum requirements must be met. All contractors must:*

Be registered with the State of Iowa, Department of Labor;

Meet any and all local or state licensing requirements;

Be able to provide evidence (i.e., certificate of successful completion and satisfactory test results) that all workers under his / her employ (i.e., employees and/or subcontractors and their employees) who will be involved in any rehabilitation that disturbs painted surfaces (known or presumed to be lead based paint) or any lead hazard reduction activity, have been trained in safe work practices as required by HUD's Lead Safe Housing regulations and the IDPH's 641-Chapter 70 IAC;

Provide current and active insurance certificates that document sufficient insurance coverage; and

Be approved by the IEDA as not being on the U.S. Department of Housing and Urban Development (HUD's) or the U.S. Department of Labor's (DOL's) lists of debarred or suspended contractors.

7.12 Contractor Procurement: The procurement of contractors for individual rehabilitation projects (including any lead hazard reduction activity), or various components of rehabilitation projects, where projects are broken down into components, will be undertaken by the community. Contractors will be procured through a competitive sealed bids procurement process.

Upon completion of the final work write-up and bid documents, the community will publicly advertise for bids in at least one local newspaper of general circulation. In addition to publicly advertising, all known area contractors (those contractors identified through the community's contractor marketing efforts and that meet the requirements of Section 7.11 above) will be notified, in writing, inviting them to bid on the community's projects as they are undertaken. Invitations to bid should also be sent to the IEDA recommended plan review rooms and area clearinghouses as well.

The community's publicly advertised bidding process will allow sufficient time for contractors to compile and submit their bids. Bids will be opened publicly at a specified date, time and place. The lowest, responsible bidder will be awarded the contract subject to bid verification and acceptability. A responsible bidder is a contractor that has met the requirements of Section 7.11 above and all other material terms and conditions of the bid documents. ***Contractor's bids need to be***

typewritten or completed in ink. Contractor's bids submitted in pencil will not be accepted.

Following the opening of all bids, the community will perform a verification of the bids received (i.e., to ensure true itemized bids submittal, to verify and to recalculate the contractor's figures, to consider any alternate bids sought after and received, etc.). A bid tabulation (summary) sheet will then be prepared by the community reflecting all bids received. All contractors submitting bids must also include a non-collusion affidavit with their submissions.

The successful bidder(s) will be notified, in writing, of the community's intent to award them a contract. All unsuccessful bidders will also be notified, in writing, by the community.

- 7.13 Contract Execution:** Following contractor(s) procurement, but prior to the award of a construction contract(s), the community will reevaluate the amount of assistance to be applied toward that project, secure all non-program funds and finalize its financial commitment of program funds to that property owner. The community's loan documents (the five-year receding forgivable loan) will be prepared for signing.

Following notification(s) of award to the successful contractor(s), arrangements will be made with all parties to formally execute the rehabilitation construction contract(s). Prior to contract(s) execution, the successful contractor(s) must submit a complete list of the materials and equipment suppliers and a complete list of subcontractors intended to be used. Concurrent with the signing of a contract(s), the property owner will execute the promissory note and mortgage lien and/or repayable loan documents discussed in Section 6.0.

Following contract(s) execution, the community will issue a notice(s) to proceed to the contractor(s), all contracts entered into. Where projects are accomplished with several individual contracts in lieu of one general contract, the timing and coordination of issuing notices to proceed will need to be considered and handled accordingly.

Frequently, contract execution and loan documents signing, as well as obtaining the contractor(s) lists of suppliers and subcontractors and the actual issuance of the notice(s) to proceed, will actually take place during the scheduled preconstruction conference required to be held.

- 7.14 Pre-Construction Conference:** ***Prior to the start of construction, the community will hold a pre-construction conference with the property owner and the contractor(s) awarded the contract(s). At the pre-construction conference, the final work write-up(s) (project specifications) will be reviewed by all parties, line item by line item, to***

ensure a thorough understanding of the work to be accomplished. Additional topics to be discussed at the pre-construction contract include, but are not limited to:

Timing and coordination of the sequence of the work (especially when and where lead hazard reduction activity or rehabilitation work that disturbs painted surfaces, known or presumed to be lead based paint, are to be accomplished, and/or if the project entails multiple contracts covering various components of the entire project);

Temporary relocation, limited access to living areas, and coordination of household schedule with lead-based paint work activity issues, as applicable (i.e., conveyance of the details of the community's temporary relocation offering and options, responsibilities, timing and coordination, packing and moving, storage, secured property owner non-access to work area(s) during interior lead hazard reduction work, specialized cleaning, clearance testing and final visual assessment, and the community's authorization of re-occupancy following completion and successful clearance testing); and

Safe work practices and OSHA requirements, as applicable.

Additionally, the responsibilities of all parties to the contract(s) need to be thoroughly discussed. The various processes and procedures involved in completing the project also needs to be covered (e.g., change order procedures, contractor payment processes, various lead hazard reduction requirements, grievance / dispute resolution procedures, etc.).

The required pre-construction conference, where all parties to the contract(s) are together, provides the contractor(s) an opportunity to issue the required Iowa Department of Public Health's Pre-Renovation Notification (all target housing) if this has not transpired before this meeting. The community should ensure that this takes place and ***obtain a copy of the executed pre-renovation notification form for its project files.***

7.15 Target Housing—Occupancy

Scheduling the Lead-Based Paint Work

The community will first coordinate with its contractors and property owners, the timing and sequence of all non-lead-based paint related interior and exterior rehabilitation work (i.e., those items that do not disturb painted surfaces; those items disturbing painted surfaces that are documented as not being lead-based paint; or those items that fall within the allowable de minimis areas), and any exterior lead-based paint related rehabilitation work and/or exterior lead hazard reduction

activity, so that all of this work combined is accomplished prior to the start of any interior lead-based paint related rehabilitation work (i.e., interior work that disturbs painted surfaces, known or presumed to be lead-based paint, and/or any interior lead hazard reduction activity).

Worksite Restricted Entry and Security

No Occupants at Worksite: Occupants shall not be permitted to enter the worksite during lead hazard reduction activities until after hazard reduction work has been completed and clearance has been achieved. Protection of Occupants' Belongings: The dwelling and worksite shall be secured against unauthorized entry and occupants' belongings shall be protected from contamination during hazard reduction activities by relocating or covering and sealing all belongings.

Occupant Protection Measures

All households will be provided the option of temporary relocation. Households with children under six years of age and/or a pregnant woman (if known) must be temporarily relocated as described below in the Temporary Relocation section.

Households that will not have safe access to sleeping areas, bathroom, and kitchen facilities outside the sealed work area must be temporarily relocated as described below in the Temporary Relocation section.

Households that live in houses that will require more than five calendar days to complete the lead hazard reduction activity for the interior of the house must be temporarily relocated as described below in the Temporary Relocation section.

Households that are not required to temporarily relocate and do not choose temporary relocation will be required to vacate the house during the work hours and have no access to the worksite when in the house after work hours except for households where all occupants of the house are at least 62 years old. The requirements that apply to projects where the households do not temporarily relocate (except for households where all occupants are at least 62 years old) are described in the "Eight Daytime Hours or Five Calendar Days" section.

Households that do not include any person under 62 years old and that have received complete disclosure of the nature of the work are not required to leave the house if there will be safe access to sleeping areas, bathroom, and kitchen facilities outside the sealed work area (worksite)

and if each occupant of the house signs an “Elderly Waiver for Relocation.” A sample “Elderly Waiver for Relocation” is included with Lead Safe Housing Regulations and Forms in Appendix to Chapter 4.

- 7.16** ***Eight Daytime Hours or Five Calendar Days: Eight Daytime Hours: Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste).***

Or

Five Calendar Days: Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

Prior to the start of the lead hazard reduction work the worksite shall be sealed to prevent the release of leaded dust, and to contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted.

For either Eight Daytime Hours or for Five Calendar Days, the work area will be sealed and no occupant will enter the work area until all such work has been completed AND successful clearance testing and final visual assessment results meeting IDPH standards has been achieved.

- 7.17** ***Temporary Relocation: Temporary relocation is required for the following households during interior work in target housing that disturbs areas that have or are presumed to have lead-based paint:***
 all households with children under six and/or a pregnant woman (if known)
 for projects where there will not be safe access to sleeping areas, bathroom, and kitchen facilities during the lead hazard reduction work.
 for projects that will require more than five days to complete the lead hazard reduction work
 any household that requests temporary relocation

The relocated households and their personal belongings will be fully protected during any rehabilitation work that disturbs painted surfaces (known or presumed to contain lead-based paint) and during any lead hazard reduction activity. Any personal belongings not temporarily relocated (e.g., large pieces of furniture, etc.) will be protected (e.g., covered and sealed) so that they will not become contaminated with lead-contaminated dust or construction debris during such interior work.

The household will be relocated to a suitable, safe / decent / sanitary living arrangement that is free of any lead-based paint hazards (post-1978 unit or clearance examination). Temporary relocation will continue to be provided until the interior lead-based paint related work has been completed, the work area(s) thoroughly cleaned (using HUD recommended specialized cleaning methods) and clearance testing and final visual assessment (interior or exterior) has been conducted with results achieved that meet IDPH standards. The community will not authorize entry or re-occupancy of the assisted property by the relocated household until all such work has been completed and successful clearance testing and final visual assessment results meeting IDPH standards has been achieved.

Some, if not all, of the relocated household's belongings must also be temporarily relocated (or adequately protected), prior to the start of such interior work. The occupant's belongings will be relocated to a safe and secure location (e.g., a lockable storage facility) accessible only to their owners. Any personal belongings not temporarily relocated (such as large pieces of furniture) must be covered and sealed to prevent possible contamination from lead-contaminated dust or construction debris during interior lead-based paint related rehabilitation and/or lead hazard reduction activity

- 7.18 Construction Supervision:** Throughout the term of construction and/or lead hazard reduction activity, all individual rehabilitation projects, the community will oversee the work of the contractor(s) and any subcontractors doing the work.

Construction supervision will be accomplished primarily through periodic and frequent work-in-progress inspections by the community's rehabilitation technician. Inspections relating to contractor payment requests, any community required (e.g., building or housing code required) inspections, and any inspections relating to change order requests will all occur as necessary.

Periodic inspections / construction supervision may also be necessary during rehabilitation that disturbs painted surfaces, known or presumed to contain lead based paint, and/or during lead hazard reduction activity as well as during cleaning done for the purpose of clearance testing and final visual assessment. The primary purposes of these inspections are to ensure that contractors are following required safe work practices and applicable OSHA requirements. The community's rehabilitation technician should wear appropriate protective clothing and equipment during such inspections.

All inspections must be documented in individual project files.

The main purpose of construction supervision is to ensure that all work specified in individual project work write-ups is completed, completed in a satisfactory workmanship-like manner, and completed in a timely manner.

- 7.19 Change Orders:** During the course of construction, the community may find it necessary to change the work write-up on any given project. Changes occur with any addition to or with any deletion of items to be accomplished, or with any other change that may occur to the original, as-bid, work write-up that alters the scope of work in any way. Change orders are needed for any and all substitutions that are made to the project as well, even if the dollar value of that work item remains unaffected. Change orders are also needed for time extensions to a rehabilitation construction contract.

Any and all changes to the contract work write-up require a fully executed change order signed by all parties to the contract. Change orders need to be contained in individual project files.

Change orders are an extension of the original project specifications (work write-up). Change orders need to detail all changes, be clear, concise and accurate, and be prepared individually listing all items if more than one item is included in the change order. The contractor's costs associated with all items listed within change orders must also be itemized.

- 7.20 Contractor Payment Procedures:** ***All payments to contractors are to be based on work completed at the time of the payment request. With all payment requests received by the community, the community's rehabilitation technician will make an inspection to verify that work (work for which payment is sought) has been completed. No payment requests will be honored prior to the community conducting an inspection.***

All materials, supplies and equipment purchased by the contractor(s) (including subcontractors) for a particular rehabilitation project must be satisfactorily installed prior to the community making payment for those items on that project. Payment requests for materials, supplies and equipment stockpiled on a job site and not yet installed will not be honored until the contractor (or subcontractor) has satisfactorily installed them.

Contractors may be paid lump sum at the completion of projects, or may seek partial payments throughout construction with a final payment request at the completion of the project. The community will withhold a minimum of ten percent (10%) from all partial payment requests received from contractors. This ten percent (10%) withholding may be reduced to a lesser amount if the community requires participating contractors to be bonded. All withholding from partial payment requests will be paid to the contractor with the final payment request.

In addition to a required inspection prior to making payment to contractors, the community must receive fully executed lien waivers from contractors for all materials and supplies, equipment, and labor costs for which payment is being sought. Where partial payment requests are made by contractors, fully executed partial lien waivers are also necessary prior to the community honoring the contractor's partial payment request.

Specifically, all fully executed lien waivers applicable to the first partial payment request must be received by the community before payment will be made on the contractor's second partial payment request. Subsequent partial payment requests will follow this procedure, whereby lien waivers for the previous partial payment request are required prior to the community honoring subsequent partial payment requests. For final payment, fully executed lien waivers are required prior to the community honoring the final payment, including the payment of funds previously withheld (retainage) from partial payments.

All lien waivers received from contractors (partial and final lien waivers) need to be reviewed and checked against the "Project Subcontractors / Suppliers" list that submitted by the contractor prior to the start of construction.

Any target housing assisted with the community's program funds (and/or other HUD funds) that involves rehabilitation that disturbs painted surfaces, known or presumed to be lead based paint, and/or lead hazard reduction activity will require thorough, specialized cleaning and clearance testing and final visual assessment following the completion of such work. Final payment(s) to the contractor(s) will not

occur prior to successful clearance testing and final visual risk assessment results meeting IDPH standards.

The property owner's concurrence and acceptance of all work for which payment is being sought must be obtained prior to the community making any partial or final payments to contractors. Refer to Section 7.21 below regarding property owner concurrence and acceptance of final payment.

7.21 *Project Completion / Acceptance: Upon completion of the project (all work except the interior rehabilitation that will disturb painted surfaces, known or presumed to contain lead based paint, and/or interior lead hazard reduction activity accomplished in target housing), the community will conduct a final inspection of the rehabilitation work accomplished on that project (including exterior lead hazard reduction activity work if applicable).*

The final inspection will be conducted by the program administrator and/or rehabilitation technician in the presence of at least one representative of the community's Rehabilitation Committee and in the presence of the property owner. It is desired that the contractor(s) attend the final inspection to make note of and to clarify any unfinished and/or questioned work.

The final inspection is made to ensure that all work was completed and was accomplished in accordance with the work write-up and any change orders that were issued, and to ensure that work was accomplished in a satisfactory manner.

Should any rehabilitation work items remain unfinished or in need of rework, a punch-list will be formulated by the community (or its representative) and presented to the contractor(s) for finalization prior to final acceptance and final payment authorization. If work or rework remains, a time frame for completion of such items will also be specified in the punch-list.

For assisted target housing projects involving any interior lead hazard reduction activity, the final inspection is conducted for all rehabilitation work items and/or exterior lead hazard reduction items except the interior rehabilitation work that will disturb painted surfaces (known or presumed to be lead based paint) and/or interior lead hazard reduction activity to be accomplished. In effect, this is an intermediate final inspection. Therefore, all other (non-interior lead-based paint related) work needs to be completed, inspected and accepted prior to the contractor(s) commencing with the interior rehabilitation that will disturb painted surfaces (known or presumed to be lead based paint) and/or interior lead hazard reduction activity.

Temporary relocation will not occur until all other (non-interior lead-based Paint related) work has been completed, inspected and accepted. Once the intermediate final inspection has occurred and the occupants and their belongings relocated the interior rehabilitation that disturbs known or presumed lead-based paint and/or lead hazard reduction activity can commence.

As an alternative, reverse work sequencing will be allowed if it better fits the work schedule of the contractor and/or the occupant. If reverse work sequencing is implemented, all interior rehabilitation work that does not disturb painted surfaces and/or does not involve interior lead hazard reduction activity needs to be completed and accepted initially. Temporary relocation will then occur, at which time the interior rehabilitation that disturbs known or presumed lead-based paint and/or interior lead hazard reduction activity can then commence. Upon completion of this work, clearance testing – including a final visual risk assessment– will be conducted on the interior of the dwelling. In effect, this is a partial final visual risk assessment (interior of the dwelling only). After successful clearance testing, the community will authorize re-occupancy of the assisted property. Subsequent to re-occupancy, all exterior rehabilitation work items and all exterior lead hazard reduction items will then commence. Upon completion of this work the community will conduct a final inspection of all rehabilitation work and lead hazard reduction activity accomplished on the project. At or prior to the final inspection clearance testing and a visual risk assessment will be completed, if applicable, on all of the exterior work accomplished.

Upon completion of the interior lead-based paint related work, specialized cleaning procedures of the affected interior work areas must occur (in accordance with HUD guidelines) and prior to the community conducting the required clearance testing and final visual assessment.

Clearance testing and a final visual assessment must follow the completion of all lead-based paint related work. Clearance testing must be accomplished in accordance with the Iowa Department of Public Health's requirements found at 641-Chapter 70 of the Iowa Administrative Code. Clearance testing results must meet the applicable IDPH standards. If clearance testing fails to meet the applicable IDPH standards, the affected work areas must be re-cleaned by the contractor(s) responsible for this and clearance testing must be re-conducted. This process continues until the project meets IDPH clearance testing standards, including the final visual assessment.

Program funds are to be used only for the initial cost of cleaning for clearance testing. If clearance testing fails to meet the applicable IDPH

standards, any and all costs associated with subsequent re-cleaning needs to be borne by the contractor(s) responsible for this. It is extremely important for contractors to follow safe work practices and to thoroughly clean affected work surfaces with the initial cleaning so that successful clearance testing results and successful final visual assessment results are achieved with the initial clearance testing and final visual assessment.

The community will use the “Notification of Lead Based Paint Hazard Reduction Completion and Final Visual Risk Assessment and Clearance Testing Results” form to document its clearance testing results as well as to notify the property owner as required. This form serves as the required notification as well as the IDPH (641-Chapter 70 IAC) required report.

The clearance test and final visual assessment will serve as the “final” final inspection for assisted target housing that includes any interior lead-based paint related work. Assisted target housing involving any interior rehabilitation that disturbs painted surfaces (known or presumed to be lead-based paint) and/or any interior lead hazard reduction activity will effectively entail two final inspections.

When all work is determined to have been satisfactorily completed, the community will execute a Final Completion and Acceptance form. This form requires the actual date of completion and acceptance as well as the signatures of all parties to the contract(s). The date on the Final Completion and Acceptance form signifies the start of the required period (term) tied to the community’s receding forgivable loan.

Following the execution of the Final Completion and Acceptance form, the community can issue the final payment and the payment of all withholding (retainage) from previous partial payment requests paid, once all lien waivers have been executed by the contractor and are in the community’s possession. Prior to making final payment and the payment of withheld funds to the contractor, all manufacturer’s and supplier’s warranties must have been conveyed to the property owner by the contractor. An “Anti-Kickback Statement” should also be executed prior to the community making final payment to the contractor.

8.0 Program Administration

8.1 Responsibilities of Parties

8.1.a. Community: The overall authority for the implementation and

administration of the community's owner-occupied rehabilitation program is with the community itself. This responsibility rests with the chief elected officials of the community (i.e., the mayor and city council or the board chair and supervisors).

The primary responsibility of the community is to ensure that the program is carried out in accordance with its contract with the Iowa Economic Development Authority (IEDA), and to ensure compliance with all applicable state and federal requirements governing the program funds associated with the community's owner-occupied rehabilitation program.

8.1.b. Rehabilitation Committee: *The community may establish a local oversight committee. This Rehabilitation Committee will be appointed by the chief elected official and be charged with certain programmatic responsibilities. At least one community representative (a City Council person) will serve on this committee. Responsibilities of the Rehabilitation Committee include, but are not limited to:*

*Final approval authorization of all applications for assistance;
Individual rehabilitation construction contracts approval
authorization;*

Grievance and dispute resolution responsibilities;

Representation during final inspection;

*Long-term monitoring responsibilities to ensure that assisted properties remain the principal places of residence to the assisted property owners for the prescribed period tied to the community's financial assistance (i.e., the five-year receding forgivable loan);
and*

Oversight of any recaptured funds received from any five-year receding forgivable loans that go into default.

8.1.c. Program Administrator and/or Rehabilitation Technician: The community will designate certain staff for the day-to-day programmatic administrative responsibilities. This may be community staff or designated staff of a third party entity under contract with the community. Those responsible for the day-to-day programmatic administration may be one or more persons.

The primary responsibilities of the program administrator and/or rehabilitation technician include, but are not limited to:

Marketing of the program to applicants and contractors;

Application intake and processing;

Ranking of applications received;

Property and applicant eligibility determination processes;

Verification of applicant information received documenting their eligibility to participate;

- Initial inspections;
- Work write-ups;
- Cost estimates;
- Historical clearances;
- Feasibility determinations;
- Level of benefit and determination of amount of assistance;
- The determination of lead hazard reduction need for all assisted target housing (recall that this can only be accomplished by Iowa-certified Sampling Technicians, Lead Inspectors / Risk Assessors, or Elevated Blood Lead (EBL) Inspectors / Risk Assessors);
- Revisions and finalization of individual project work write-ups, as applicable;
- Contractor procurement;
- Contracting;
- Temporary relocation (as applicable);
- Construction supervision (inspections, change orders, contractor payments, lead hazard reduction oversight, etc.);
- Project completion, final inspection(s), clearance testing and final visual assessment (as applicable) and final acceptance;

Grievance and dispute resolution responsibilities; and
Progress reporting to the Rehabilitation Committee, the community and the IEDA.

9.0 Grievance and Dispute Resolution

Step 1: Any grievances or disputes arising between a property owner and the contractor(s) will initially be mediated by the community's program administrator and/or rehabilitation technician. It is the grieving (or disputing) party's obligation to contact the community's program administrator and/or rehabilitation technician with a detailed account of the issue(s) comprising the grievance or dispute. The program administrator and/or rehabilitation technician will make a determination of resolution on the issue(s) brought to their attention and convey to both the property owner and the contractor a course of action to be taken, in what time frame, and by whom.

Step 2: Should either party contest the community's program administrator's and/or rehabilitation technician's initial decision, a request for an appeal hearing by the community's Rehabilitation Committee may be made. This request must be made in writing. The Community's Rehabilitation Committee will set a date, time, and place for this appeal hearing and notify the parties of same. The Rehabilitation Committee will make their determination at, or shortly after, their meeting and convey their determination of resolution to the issue(s) raised, in writing, to both parties. The Rehabilitation Committee's determination will convey to both parties a course of action to be taken, in what time frame, and by whom.

Step 3: Should either party contest the Rehabilitation Committee's decision, a

request to appeal this decision may be made to the community's governing body (i.e., mayor and city council; chair and board of supervisors; etc.). The decision of the community's governing body will be conveyed, in writing, to both parties. The governing body's determination will convey a course of action to be taken, in what time frame, and by whom. The decision of the community's governing body will be final and binding on all parties.

Step 4: In the event that the grievance or dispute remains unresolved to the satisfaction of either party, the right to file legal action remains the last and only recourse available to the grieving or disputing party.

Should a grievance or dispute arise between either the property owner or the contractor and the community's program administrator and/or rehabilitation technician, the procedure to follow is the same as described above, except that Step 1 would be omitted.

Written grievances or disputes that are received by the IEDA directly (or indirectly) from a property owner, the contractor or a representative of the property owner or contractor will be forwarded to the community for resolution. Resolution is to follow the above described process.

9.1 *Written Relocation Policy Guide: The community's written relocation policy must be submitted to IEDA as Exhibit A to the Administrative Plan as a condition of the contract with IEDA. The policy at a minimum must include the following information:*

When relocation is required under the program and how long temporary relocation will typically last

How much notice will be provided to move and return

What constitutes an appropriate relocation unit (must be post-1978 or documented as lead-safe by a clearance examination)

Whose responsibility it is to identify a temporary unit

What costs may be covered such as a unit provided, units at selected lodging paid directly, meal allowance if there are no cooking facilities, etc.

How payments will be made

EXHIBIT A: CITY OF MARSHALLTOWN TEMPORARY RELOCATION POLICY

The following relocation policies shall be followed:

- 1) Relocation shall be required under the following circumstances:
 - a. When the residence is undergoing work that disturbs areas that have or are presumed to have lead based paint.
 - b. When safe access to, and use of, sleeping areas, bathrooms and kitchen facilities is not available for period of at least eight (8) consecutive hours.
 - c. When occupancy of the residence is not reasonable due to the presence of lead hazards, excessive noise, excessive airborne particles, electrical hazards, lack of heat, lack of running water, plumbing issues, lack of ingress/egress or any other reasons as verified by the program administrative entity and rehabilitation technician.
 - d. NOTE: Households participating in the program in which all occupants are sixty-two (62) years of age or older are NOT required to leave the home if there will be safe access to sleeping areas, bathroom and kitchen facilities and if each occupant of the home signs an Elderly Waiver of Relocation form.
- 2) Contractors will be required to provide a minimum of five (5) working days notice prior to relocation being required.
- 3) Contractors shall notify residents within not more than one (1) working day of when the home has been certified for re-occupancy by the program administrative entity and rehabilitation technician.
- 4) All relocation units will be selected by the program administrator in consultation with the displaced persons and will be suitable, safe, decent and similarly accessible and must be constructed after January 1, 1978. All units will be inspected by the program administrative entity and rehabilitation technician prior to being approved for relocation. Units should be in as close a proximity to the permanent residence as feasible.
- 5) It is anticipated that temporary relocation will typically be for duration of five (5) to ten (10) working days. A provision will be placed in all rehabilitation contracts deducting temporary relocation costs from payments due the contractor beginning immediately after the fifteenth (15th) working day of relocation.
- 6) The City/County will, through the CDBG program, cover the following relocation related expenses:
 - a. Cost of lodging, (rent, lease, hotel/motel).
 - b. Cost of storage of essential household goods as needed.
 - c. Per diem cost of food if no cooking facilities are available on site.
 - d. Cost of utilities, (if applicable).

- e. Cost of moving, (if applicant is incapable of moving without assistance).
- f. Aggregate relocation costs shall be capped at \$2,000/household.
- g. Payments will be based upon actual costs incurred within not later than 20 days of the local government's receipt of proper expense documentation

EXHIBIT B: CITY OF MARSHALLTOWN ELDERLY WAIVER FOR RELOCATION
[OUR PROGRAM]
[STREET ADDRESS]
[CITY, STATE ZIP]
[PHONE]

[The following sample certificate reflects policies that could be adopted for an elderly waiver provision. No policy should be adopted without consideration by legal counsel.]

I, _____, the undersigned,

_____ Choose to remain in my home while rehabilitation work by the City of
MARSHALLTOWN
is being performed in my dwelling unit.

_____ Choose to relocate to another location while work is being performed.

I have made this choice having read and understood the following:

- 1) I am at least 62 years old.
- 2) My home was build before 1978.
- 3) I have received the pamphlet "Protecting Your Family From Lead in Your Home" and I am aware of the health hazards that are posed by leadbased paint.
- 4) I have been given a description of work that will be done in my home and understand that during the course of the work lead hazards may be created in the work area. These hazards will be fixed before the job is considered complete.
- 5) I may stay in my home but I may not enter the work area while work is being performed.
- 6) I certify that no children under age six or women of childbearing age currently live in the dwelling unit or spend significant amounts of time in the unit.
- 7) I understand that allowing children under age six or women of childbearing age to visit my home while work is being done may pose a risk to their health.

8) I waive the rights to all damages. I agree to hold harmless the City of Marshalltown for any damages due to lead poisoning that occur on these premises during the course of the work.

Signed:

Name

Date

Name

Date

Certification of Compliance CDBG Procurement Standards

CDBG Applicant/Recipient: Marshalltown

Application year: 19-OT-005

2 CFR 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

I certify that I am the chief elected official and that the community listed above did not violate the above competition statute when competitively procuring engineering or administrative services as part of the potential CDBG award.

Signature: _____

Printed Name: _____

Date: _____

CODE OF CONDUCT

PURPOSE

The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with 2 CFR Part 200.318 and other applicable federal and state standards, regulations, and laws.

APPLICATION

This Code of Conduct applies to all officers, employees, or agents of The City of Marshalltown, Iowa engaged in the award or administration of contracts supported by federal grant funds.

REQUIREMENTS

No officer, employee, or agent of The City of Marshalltown, Iowa shall participate in the selection, award, or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer, or agent;
- b. Any member of his/her immediate family;
- c. His/her partner; or

An organization which employs, or is about to employ any of the above; or, has a financial or other interest in the firm selected for award.

The City of Marshalltown, Iowa officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

FRAUD, WASTE AND ABUSE

The City of Marshalltown, Iowa has zero tolerance for the commission or concealment of acts of fraud, waste, or abuse. All officers, employees, or agents shall notify the City of Marshalltown, Iowa of suspected actions. Allegations of such acts will be investigated and pursued to their logical conclusion, including legal action where warranted. Concerns may be reported to The City of Marshalltown, Iowa 24 N. Center Street. Marshalltown, Iowa 50158 Phone: 641-754-5701

REMEDIES

To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against The City of Marshalltown, Iowa officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

Passed and adopted this _____ day of _____, 2019

Joel Greer, Mayor Marshalltown, Iowa

ATTEST

Shari Coughenour, City Clerk Marshalltown, Iowa

POLICY ON THE PROHIBITION OF THE USE OF EXCESSIVE FORCE

WHEREAS, The City of Marshalltown, Iowa has received federal funding through the Community Development Block Grant (CDBG) program; and,

WHEREAS, Section 519 of the Department of Veteran Affairs and U.S. Department of Housing and Urban Development, and Independent Agencies Appropriations Act of 1990 requires that all CDBG recipients adopt and enforce a policy to prohibit the use of excessive force by law enforcement agencies within the recipient's jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

WHEREAS, all recipients of CDBG funds are further required to follow a policy of enforcing applicable state and local laws against physically barring entrances or exits to a facility that is the subject of a nonviolent protest demonstration; and

WHEREAS, The City of Marshalltown, Iowa endorses a policy prohibiting the use of excessive force and will inform all law enforcement agencies within its jurisdiction of this policy,

NOW, THEREFORE, BE IT RESOLVED, The City of Marshalltown, Iowa hereby prohibits any law enforcement agency operating within its jurisdiction from using excessive force against any individuals engaged in nonviolent civil rights demonstrations. In addition, The City of Marshalltown, Iowa agrees to enforce any applicable state or local laws against physically barring entrances or exits from a facility or location that is the subject of a non-violent protest demonstration. The City of Marshalltown, Iowa further pledges enforcement of this policy within its jurisdiction and encourages any individual or group who feels that The City of Marshalltown, Iowa has not complied with this policy to file a complaint.

Information and assistance relative to excessive force complaints shall be provided by Shari Coughenour, City Clerk Marshalltown, Iowa 641-754-5701

Adopted by The City of Marshalltown, Iowa this day of , 2019

Joel Greer, Mayor Marshalltown, Iowa

ATTEST

Shari Coughenour, City Clerk Marshalltown, Iowa

PUBLIC NOTICE AFFIRMATIVE FAIR HOUSING POLICY

This notice is published pursuant to the requirements of Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with federal assistance, and with Title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in the provision of housing because of race, color, creed, religion, sex, national origin, disability or familial status.

The City of Marshalltown, Iowa advises the public that it will administer its assisted programs and activities relating to housing and community development in a manner to affirmatively further fair housing in the sale or rental of housing, the financing of housing and the provision of brokerage services.

The City of Marshalltown, Iowa shall assist individuals who believe they have been subject to discrimination in housing through the resources of the Iowa Civil Rights Commission or the U.S. Department of Housing and Urban Development.

City of Marshalltown, Iowa has designated the Mayor of Marshalltown, Iowa as the contact to coordinate efforts to comply with this policy. Inquiries should be directed to:

NAME: Joel Greer

OFFICE: Mayor Marshalltown, Iowa

ADDRESS: 24 N. Center Street, Marshalltown, Iowa 50158

PHONE: 641-754-5701

HOURS: _____



**EQUAL HOUSING
OPPORTUNITY**

**THE RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE
PLAN UNDER SECTION 104(d) OF THE HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1974, AS AMENDED**

The *City of Marshalltown* will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate-income housing in connection with an activity assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR 570.496a(c)(1).

All replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a contract committing the *City of Marshalltown* to provide funds for an activity that will directly result in demolition or conversion, the *City of Marshalltown* will make public by publication in a newspaper of general circulation and submit to IEDA the following information in writing:

1. A description of the proposed assisted project;
2. The address, number of bedrooms, and location on a map of lower-income dwelling units that will be demolished or converted to a use other than as lower-income dwelling units as a result of an assisted project;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of lower-income dwelling units by size (number of bedrooms) and location on a map of the replacement lower-income housing that has been or will be provided. NOTE: See also 24 CFR 42.375(d).
5. The source of funding and a time schedule for the provision of the replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of lower-income dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).

To the extent that the specific location of the replacement housing and other data in items 4 through 7 are not available at the time of the general submission, the *City of Marshalltown* will identify the general location of such housing on a map and complete the disclosure and submission requirements as soon as the specific data are available.

The *Mayor, Joel Greer, 641-482-3159*, is responsible for tracking the replacement of housing and ensuring that it is provided within the required period. The *Mayor, Joel Greer, 641-482-3159*, is responsible for ensuring requirements are met for notification and provision of relation assistance, as described in CFR 570.496(a)(c)(2), to any lower-income person displaced by the demolition of any dwelling unit or the conversion of a low/moderate-income dwelling unit to another use in connection with an assisted activity.

Consistent with the goals and objectives of activities assisted under the Act, the *City of Marshalltown* will take the following steps to minimize the direct and indirect displacement of persons from their homes.

1. Coordinate code enforcement with rehabilitation and housing assistance programs.
2. Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
3. Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
4. Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
5. Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
6. Adopt policies which provide reasonable protections for tenants faced with conversion to a condominium or cooperative.
7. Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.

The jurisdiction must determine the appropriate steps. Examples are listed.

Adopted by the City of Marshalltown, this ____ day of _____, 2019.

Joel Greer, Mayor

Attest:

Shari Coughenour, City Clerk

RESOLUTION ORDERING CONSTRUCTION OF THE VETERANS MEMORIAL COLISEUM RENOVATION IN THE CITY OF MARSHALLTOWN, IOWA, SETTING PUBLIC HEARING ON PROPOSED PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATED COST AND DIRECTING PUBLICATION OF NOTICE TO BIDDERS, BEING PROJECT NUMBER BLD19001

WHEREAS there is now on file in the office of the City Clerk proposed plans, specifications, form of contract, and estimated costs for the construction of the VETERANS MEMORIAL COLISEUM RENOVATION, Project No. BLD19001, in the City of Marshalltown, Iowa, as is fully set forth in the plans and specifications for Project No. BLD19001; and

WHEREAS the cost of the said improvement is in excess of \$25,000 and a public hearing on the plans, specifications, form of contract and the estimated cost of said improvement is required by law and that notice thereof shall be given as required by law; and

WHEREAS it is intended that the cost of said improvement shall be paid from such funds as the City may legally use for such purposes or from the proceeds from the issuance of such bonds as may be legally issued for said purposes or any combination of the above methods of financing.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. This Council does hereby order the construction of the VETERANS MEMORIAL COLISEUM RENOVATION in the City of Marshalltown, Iowa, which public improvement is fully and particularly described in the plans and specifications for Project No. BLD19001, now on file in the office of the City Clerk of Marshalltown, Iowa.

Section 2. That the method of construction shall be by contract in accordance with the plans and specifications and general stipulations for the said improvement approved by the City Council.

Section 3. The Contractor will be paid in monthly estimates for work completed as set out in the specifications. The project shall begin on or near the appropriate starting date as specified on the form of proposal and shall be completed within the specified number of calendar days also indicated thereon.

Section 4. That the said improvements shall be paid for from such funds of the City as may be legally used for such purposes, or from the proceeds of the issuance of such bonds as may be legally issued for such purposes or from any combination of such methods of financing and will be paid in accordance with the Notice to Bidders duly published in connection therewith. The Finance Director shall establish on the books a VETERANS MEMORIAL COLISEUM RENOVATION fund and the bond proceeds or such funds of the City as may be legally used for such purposes are hereby appropriated to pay all costs of the improvements including legal publication, bond, design, engineering, survey and inspection, contract and contingency cost as estimated by the Engineer. The Finance Director is directed to advance all sums necessary from the project fund, and to set up on the books the obligations and receivables of the fund.

Section 5. The City Clerk is hereby directed to publish notice of hearing on plans, specifications, and form of contract and estimated cost in the manner provided by law for the public improvement outlined herein and that any person interested therein may appear and make objections thereto, if any he has. This Council will meet in the Council Chamber, Second Floor, 10 West State Street at Marshalltown, Iowa, at 5:30 P.M., local time on 10/14/2019 for the purpose of hearing all of said objections so made and for taking final action upon the plans, specifications, and form of contract now on file.

Section 6. The City Clerk is further directed to advertise for bids in the manner provided by law for the construction of said improvements, setting forth in said notice such necessary pertinent information as will advise prospective bidders thereof together with the proposed manner of payment of the work to be constructed and that such bids be filed and received in the office of the City Clerk of Marshalltown, Iowa, up to . The bids will be opened, read, and tabulated by the City Engineer or his designate at that time and will be acted upon by the City Council of said City at a meeting to be held in the Council Chambers, Second Floor, 10 West State Street, Marshalltown, Iowa, , or at such later time and place as may then be fixed for considering such bids as shall be filed in connection with the improvement herein ordered and in compliance with the notice of taking bids therein, hereby ordered to be published.

Passed this ___ day of September, 2019 and signed this ____ day of September, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Shari L. Coughenour, CMC, City Clerk

NOTICE OF PUBLIC HEARING

A public hearing will be held at 5:30 p.m. local time on Monday, October 14, 2019, in the Council Chambers, Second Floor, 10 West State Street, Marshalltown, Iowa, on the proposed plans, specifications, proposed form of contract, and the estimated cost of improvements proposed to be constructed under Project No. BLD19001, the VETERANS MEMORIAL COLISEUM RENOVATION, is now on file in the office of the City Clerk and at said hearing any interested person may appear and file objection thereto or to the bidding process.

The Notice to Bidders is available on the Construction Update Network and on the city's website.

This Notice of Public Hearing is hereby published by authority of resolution duly adopted by the Council of the City of Marshalltown.

CITY OF MARSHALLTOWN, IOWA

/s/ Shari L. Coughenour, CMC, City Clerk

To be published no earlier than **Tuesday, September 24, 2019** and **no later** than **Tuesday, October 8, 2019** to meet the 4 and 20 day publication requirement.

We can not count the day of publication or Sunday since it is the last day we calculating the publication days.

2019-__

RESOLUTION AUTHORIZING EXPENDITURE AND TRANSFER OF COUNCIL
DESIGNATED LOCAL OPTION SALES AND SERVICE TAX RESERVE TO PARTIALLY
FUND THE 10% LOCAL MATCH FOR THE DESIGN OF AN AIRPORT HANGAR 100' X
120' AND DESIGN OF AN AIRPORT TERMINAL BUILDING

WHEREAS the Council approved Resolution 2019-140 on June 24, 2019, which authorized application to the Federal Aviation Administration for funding assistance for the Airport Hangar Improvements design, in the amount of \$62,000; and

WHEREAS the Council has authorized an agreement with Clapsaddle-Garber by Resolution 2017-138 on June 24, 2019, in the amount of \$54,100 for design of a terminal building and approach pavement; and

WHEREAS the Council has authorized an agreement with Clapsaddle-Garber by Resolution 2017-139 on June 24, 2019, in the amount of \$59,458 for design of hangar improvements; and

WHEREAS the 10% city match is approximately \$6,200 of hangar improvements; and

WHEREAS a portion of the council designated use of the Local Option Sales and Service Taxes is available in reserve to cover the remainder of the 10% city match for the hangar project; and

WHEREAS a portion of the council designated use of the Local Option Sales and Service Taxes is available in reserve to cover the design fees for the terminal project; and

WHEREAS the council finds this action is in the best interest of the City of Marshalltown, Iowa.

THEREFORE, IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF
MARSHALLTOWN, IOWA AS FOLLOWS:

Section 1. The council authorizes transfer and expenditure of Local Option Sales and Service Tax Reserve to be utilized to cover the 10% funding requirements for the Airport Hangar design in the amount of \$6,200 and the Terminal design in the amount of \$54,100 totaling \$60,300.

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute said Agreement on behalf of the City of Marshalltown.

Passed on this __ day of ____ 2019, and signed on this __ day of ____ 2019.

CITY OF MARSHALLTOWN, IOWA

Joel T.S. Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk



Marshalltown Street Dept.

c/o Justin

I would like to thank your department for responding so quickly to my questions.

All of the families on

North 17th Street would like

to request the "dead end" sign be put back in place as it was damaged by the storm.

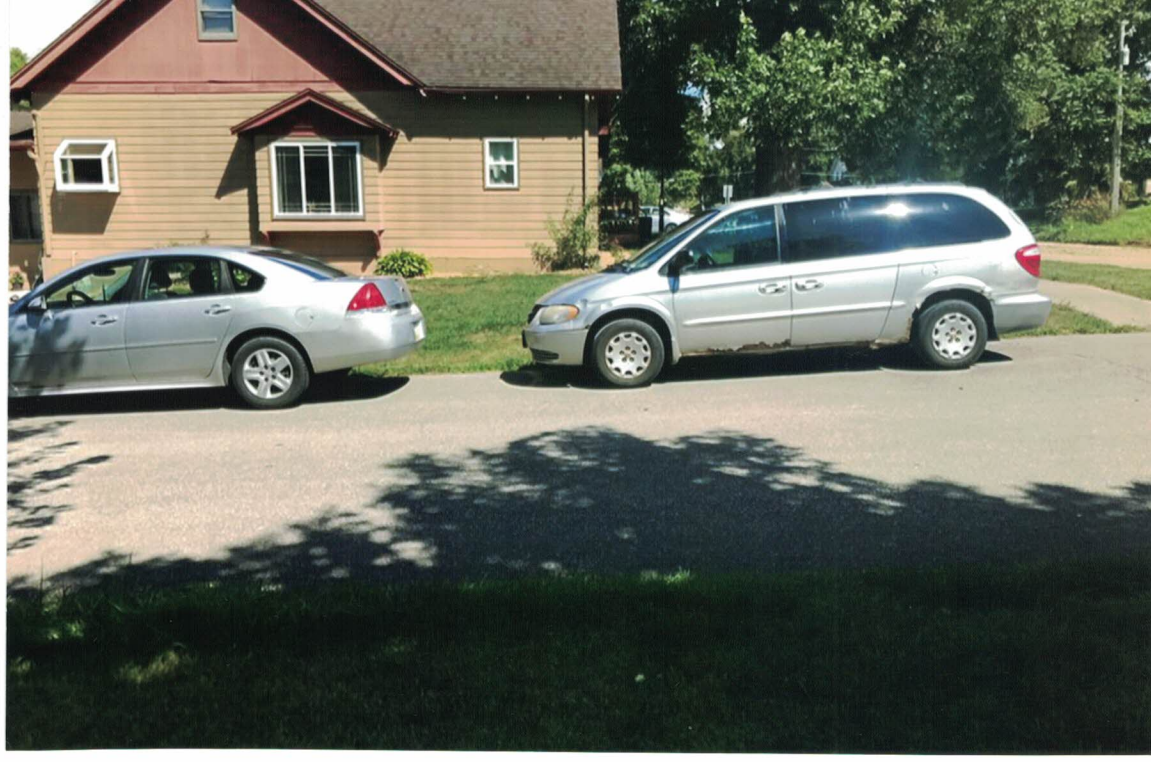
Could it possibly be put facing east and west so it's more visible? We have no

curbs so vehicles are driving

thru our yards and the

fire hydrant just got hit

again last week from



a truck that tried to turn around by driving thru 2 neighbors yards.

Also we were wondering if there could be no parking signs on both sides, ~~at least~~ ~~because~~ we have several vehicles that do not live on the dead end and they park so close to the stop sign that it creates a bottleneck every day and every night.

It creates an obstructed view for those coming in and going out. With school starting and kids walking it can be dangerous. Thank you for your time.

Rocky & Lissa Monk
641-751-5580

ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MARSHALLTOWN, IOWA BY
AMENDING CHAPTER 77, SCHEDULE II, NO PARKING ANYTIME, BY ADDING NO PARKING ON 17TH
STREET FROM MAIN STREET TO 220' NORTH TO THE CREEK

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by inserting the following line into the table listed in Chapter 77, Schedule II, No parking anytime. The parking of vehicles is hereby prohibited at all times on certain streets and locations hereafter set forth as follows:

Side		On Street	From	To
BOTH	N	17 th ST	MAIN ST	220' NORTH (to the creek)

Section 2. That this ordinance shall be in full force and effect after its passage and publication as by law.

Passed this __ day of _____, 2019, and signed this __ day of _____, 2019.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

I, Shari L. Coughenour, CMC, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the __ day of _____, 2019, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the __ day of _____, 2019.

Shari L. Coughenour, CMC, City Clerk

Sept. 8, 2019

Dear Mr. Nickel,

It was a pleasure to meet you at the August 22, 2019 meeting concerning accessibility within our city. We appreciate your concern with helping Marshalltown be accessible to those with mobility issues. We would like to request an additional handicap accessible parking space on the west side of Second Ave near the REM Developmental Services building which is located at 21 South Second Ave. This building serves many individuals with mobility issues, some who require wheelchairs, walkers and other assistive devices. The individuals are brought to the REM building Monday through Friday each week. They are either riding the accessible city bus, People Rides bus or brought by family members or staff in accessible vehicles. There is currently one parking space in front of the building and two spaces in the public parking lot. One of those spaces usually is occupied by the REM van for close proximity in loading the individuals for their community outings. The other space is not van accessible unless you back in or park of the marked lines, since ramps are on the passenger side or rear of an accessible van. Often times at 9:00 a.m. and 3:00 p.m. it is a challenge to find an accessible parking space. We would certainly appreciate your willingness to consider creating one additional handicap parking space in this area.

Thank you so much for your consideration. If you have any other questions or would like additional information, please contact us and we would be happy to help.

Sincerely,

Tim and Mindy McMahon

1004 Benjamin Dr.

Marshalltown, IA

641-753-5779

Home.mcmanager@gmail.com

FW: Parking....

From : Justin Nickel <jnickel@marshalltown-ia.gov>

Tue, Sep 17, 2019 09:49 AM

Subject : FW: Parking.... 1 attachment**To :** Shari Coughenour <scoughenour@marshalltown-ia.gov>

Reduction in Handicapped spaces request #1. Request #2 to follow.

Justin Nickel, P.E.
Director of Public Works
24 N. Center Street
Marshalltown, Iowa
641-754-5734(w)
641-750-5929(c)
jnickel@marshalltown-ia.gov

From: TJ Inman <lowachiro@hotmail.com>**Sent:** Monday, September 16, 2019 5:02 PM**To:** jnickel@marshalltown-ia.gov**Subject:** Parking....

Hi there. I wonder if there's a way to have someone re-evaluate the street parking at my clinic (313 West Main). There are two handicapped parking spots, and I feel there's only a need for one of them. I've worked here for 18 years, and the vast majority of the people who park in those spots are my patients, but I feel that only the space on the end should be a handicapped spot, since it's exceedingly rare for both of them to be occupied at the same time. The other spot would be MUCH better allocated as a regular parking space, as we've always been challenged as far as having enough parking. Thanks for listening.

TJ Inman, DC

| | Virus-free. www.avast.com

From : Justin Nickel <jnickel@marshalltown-ia.gov>
Subject : FW: 307 W Main St
To : Shari Coughenour <scoughenour@marshalltown-ia.gov>

 1 attachment

Justin Nickel, P.E.
Director of Public Works
24 N. Center Street
Marshalltown, Iowa
641-754-5734(w)
641-750-5929(c)
jnickel@marshalltown-ia

—

| | |

Wade Johnson
307 W. Main St
Marshalltown, IA 50158
641-752-8538 (Office)
641-754-6993 (Fax)
wjohnson@farmersagent.com
<http://www.farmersagent.com/wjohnson>

AN ORDINANCE TO AMEND NUMBER OF HANDICAP PARKING SPACES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:
Section 1. Chapter 77, Parking Schedules, Schedule IX, Disabled Parking of the Municipal Code of Marshalltown, is amended by repealing Section (A) and enacting the following as a substitute:

SCHEDULE IX. Disabled Parking

(A) Disabled parking areas established. The city council may establish parking areas in the city that shall be reserved for parking by disabled persons. The following locations are designated as disabled parking:

Block		On Street	Side	Location
200	W	STATE ST.	SOUTH	1ST SPACE WEST OF 2ND ST.
300	W	MAIN ST.	NORTH	1ST SPACE EAST OF 4TH ST. (311 E MAIN)
200	W	MAIN ST.	NORTH	1ST 2 SPACES EAST OF ALLEY
200	W	MAIN ST.	SOUTH	1ST SPACE EAST OF ALLEY
200	W	MAIN ST.	SOUTH	2ND AND 3RD SPACES EAST OF ALLEY (SUNDAY ONLY)
100	W	MAIN ST.	NORTH	1ST SPACE WEST OF ALLEY
10	W	MAIN ST.	SOUTH	1ST SPACE EAST OF 1ST ST.
10	W	MAIN ST.	SOUTH	1ST SPACE EAST OF ALLEY
10	E	MAIN ST.	NORTH	1ST SPACE WEST OF 1ST AVE.
100	E	MAIN ST.	NORTH	1ST SPACE EAST OF ALLEY
100	E	MAIN ST.	SOUTH	1ST SPACE WEST OF ALLEY
200	E	MAIN ST.	NORTH	1ST SPACE WEST OF ALLEY
300	E	MAIN ST.	SOUTH	2ND AND 3RD SPACES EAST OF 3RD AVE.
10	W	CHURCH ST.	SOUTH	3RD AND 4TH SPACES EAST OF CENTER ST. (SUNDAY ONLY)
10	W	CHURCH ST.	SOUTH	5TH SPACE EAST OF CENTER ST.
100	W	CHURCH ST.	NORTH	2ND SPACE WEST OF 1ST ST.
100	E	CHURCH ST.	NORTH	1ST SPACE WEST OF ALLEY
100	E	CHURCH ST.	SOUTH	1ST SPACE WEST OF SOUTH 1ST AVENUE
200	E	CHURCH ST.	NORTH	1ST SPACE EAST OF ALLEY
200	E	CHURCH ST.	SOUTH	1ST SPACE EAST OF 2ND AVE.
10	S	1ST ST	WEST	1ST SPACE NORTH OF CHURCH ST.
10	S	4 th ST	EAST	(2) SPACES, 135’ AND 170’ SOUTH OF THE SOUTH LINE OF W MAIN ST
10	N	CENTER ST.	WEST	1ST SPACE SOUTH OF W. STATE ST.
100	N	CENTER ST.	WEST	3RD SPACE SOUTH OF ALLEY
100	N	CENTER ST.	EAST	6TH SPACE NORTH OF ALLEY
10	S	CENTER ST.	WEST	1ST SPACE SOUTH OF ALLEY
10	N	1ST AVE.	WEST	1ST SPACE NORTH OF MAIN ST.
10	S	1ST AVE.	EAST	1ST SPACE SOUTH OF ALLEY
10	S	1 ST AVE.	EAST	1 ST SPACE NORTH OF E. CHURCH ST
10	S	2 ND AVE	EAST	1 ST SPACE NORTH OF CHURCH ST
10	S	2 ND AVE	WEST	1 ST AND 2 ND SPACE SOUTH OF ALLEY (AT 21 S CENTER ST)
100	S	2 ND AVE	EAST	2 ND SPACE SOUTH OF CHURCH ST (AT PRESBYTERIAN CHURCH - CORRECTION)
				(CORRECTION)
210	W	CHURCH ST	NORTH	1 ST SPACE EAST OF 3 RD AVENUE
500	S	3RD AVE.	WEST	1ST 1 SPACE NORTH OF MADISON ST.
500	S	3RD AVE.	EAST	1ST 1 SPACE NORTH OF MADISON ST.
10	N	5TH AVE.	EAST	1 SPACE AS SIGNED (SUNDAY ONLY)
10	S	5 TH AVE.	EAST	1 ST SPACE SOUTH OF THE EAST/WEST ALLEY
300		COLUMBUS DR.	NORTH	FROM 145 FEET WEST OF HUISMAN CIRCLE TO 70 FEET WEST
		PARKING LOT A		2 SPACES AS SIGNED
		PARKING LOT D		1 SPACE AS SIGNED

		PARKING LOT E		1 SPACE AS SIGNED
		PARKING LOT F		1 SPACE AS SIGNED
		PARKING LOT H		3 SPACES AS SIGNED
		PARKING LOT J		4 SPACES AS SIGNED
		PARKING LOT K		1 SPACE AS SIGNED
		PARKING LOT L		1 SPACE AS SIGNED
		PARKING LOT N		1 SPACE AS SIGNED
		PARKING LOT O		1 SPACE AS SIGNED
		PARKING LOT P		2 SPACES AS SIGNED
		PARKING LOT W		1 SPACE AS SIGNED
		PARKING LOT Z		1 SPACE AS SIGNED
		SENIOR CITIZENS LOT		4 SPACES AS SIGNED
		OFF STREET, WEST OF 10 W STATE STREET		2 SPACES AS SIGNED

Section 2 That suitable signs shall be removed or removed as provided by ordinance and these regulations shall become effective upon posting said signs.

Passed this __ day of _____, 2019, and signed this __ day of _____, 2019.
CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor
ATTEST:

Shari L. Coughenour, CMC, City Clerk

I, Shari L. Coughenour, CMC, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the __ day of _____, 2019, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the ____ day of ____, 2019.

Shari L. Coughenour, CMC, City Clerk

MARSHALLTOWN

— I O W A —

City Administrator's Office

Joel Greer, Mayor
Jessica Kinser, Administrator
Shari L. Coughenour, Clerk
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5799
Fax - (641) 754-5717

To: Mayor Greer and the City Council
From: Jessica Kinser, City Administrator
Date: September 16, 2019
RE: Funding for Tennis Complex

The City has been asked to financially participate in the reconstruction and expansion of MHS Tennis and Pickle-ball Facility at approximately one-third of the cost or \$750,000. This discussion is timely as the Council can determine if this is a project you would like to include in a borrowing that would close on December 1st or shortly thereafter. There are some challenges in Iowa law to funding at this law but it is not impossible.

The City can only borrow \$700,000 for a general corporate purpose project with a public hearing. If the Council would like to exceed \$700,000 a referendum would have to be held. I do not recommend exceeding a debt issuance of \$700,000 related to this project for that reason. If the Council would like to consider funding any amount over \$700,000, I would recommend looking at other resources (CIP tax levy, LOST Council-designated) to make up that portion.

The Marshalltown Community School District (MCSD) will be the lead entity on this project, and the City would be participating as a funding partner. MCSD has offered to borrow the entire cost of the project and have a repayment agreement with the City for our portion. While this seems like an easier path, it does have similar challenges. The City would still have to go through debt proceedings. Even a loan is considered issuing debt and has strict requirements for a public hearing. Also, because it is still debt, it would still be capped at the \$700,000 maximum.

Ultimately, I would recommend repayment of either the bond or loan be placed on the City's debt service tax levy. Local Option Sales Tax is an annual allocation and could be used as a long term funding source as well. I would recommend the Council include this in our upcoming borrowing, so that we would not have to duplicate steps with the Council approval process. This also puts in more control over the repayment of the funding if it is part of a City-issued bond, as we have typically been very aggressive in the repayment schedules of our existing debt.

For discussion purposes, I have placed this in the memo of projects which the Council should consider for the upcoming general obligation debt issuance.

City Council
Susan Cahill, Michael Gowdy, Al Hoop,
Gabriel Isom, Leon Lamer, Bill Martin, Bethany Wirin



Marshalltown CSD / City of Marshalltown / Martha Ellen Tye Foundation Proposal

Proposed Reconstruction & Expansion of MHS Tennis + Pickle-ball Facility

What: The Marshalltown CSD and the City of Marshalltown have been partners concerning the usage, maintenance and/or construction of the MHS tennis courts since 1974. The current proposal calls for the reconstruction and expansion of the eight existing MHS tennis courts to provide the Marshalltown School Community with twelve tennis courts, three pickle-ball courts and related amenities (restroom, storage facility, spectator area, parking etc.).

Where: Marshalltown High School

When: **Phase 1:** Marshalltown High School South Courts- six new courts (Spring -Summer 2020). This project will include a minimum of lighting infrastructure to accommodate the potential for future lighting of the courts.

Phase 2: Marshalltown High School North Courts (the existing eight tennis courts will be reconstructed into two sets of three tennis courts with adequate walkway & seating area between (Summer-Fall 2020).

***The purposeful phasing of this project is to ensure adequate court availability, at all times, for the Marshalltown CSD programs, youth programs and community during the time of re/construction.**

Why: The existing conditions of the Marshalltown High School tennis courts were evaluated by FEH architects, engineers and a court construction vendor and it has been recommended that no additional funds be spent on further significant repair of these courts. Full replacement is deemed necessary. "Most" of the courts have been determined to be safe for approximately 1-2 years but reconstruction is necessary in order to support safe & competitive interscholastic play.

How: The total "projected" cost for all phases of this reconstruction & expansion project is \$2,231,571.60. It is being requested that expenditure be funded equally, at the cost of **\$743, 857.20** between the Marshalltown CSD, the City of Marshalltown and the Martha Ellen Tye Foundation.

*The Marshalltown CSD plans to apply to the United States Tennis Association (USTA) to help offset some construction costs and for painting youth development lines.

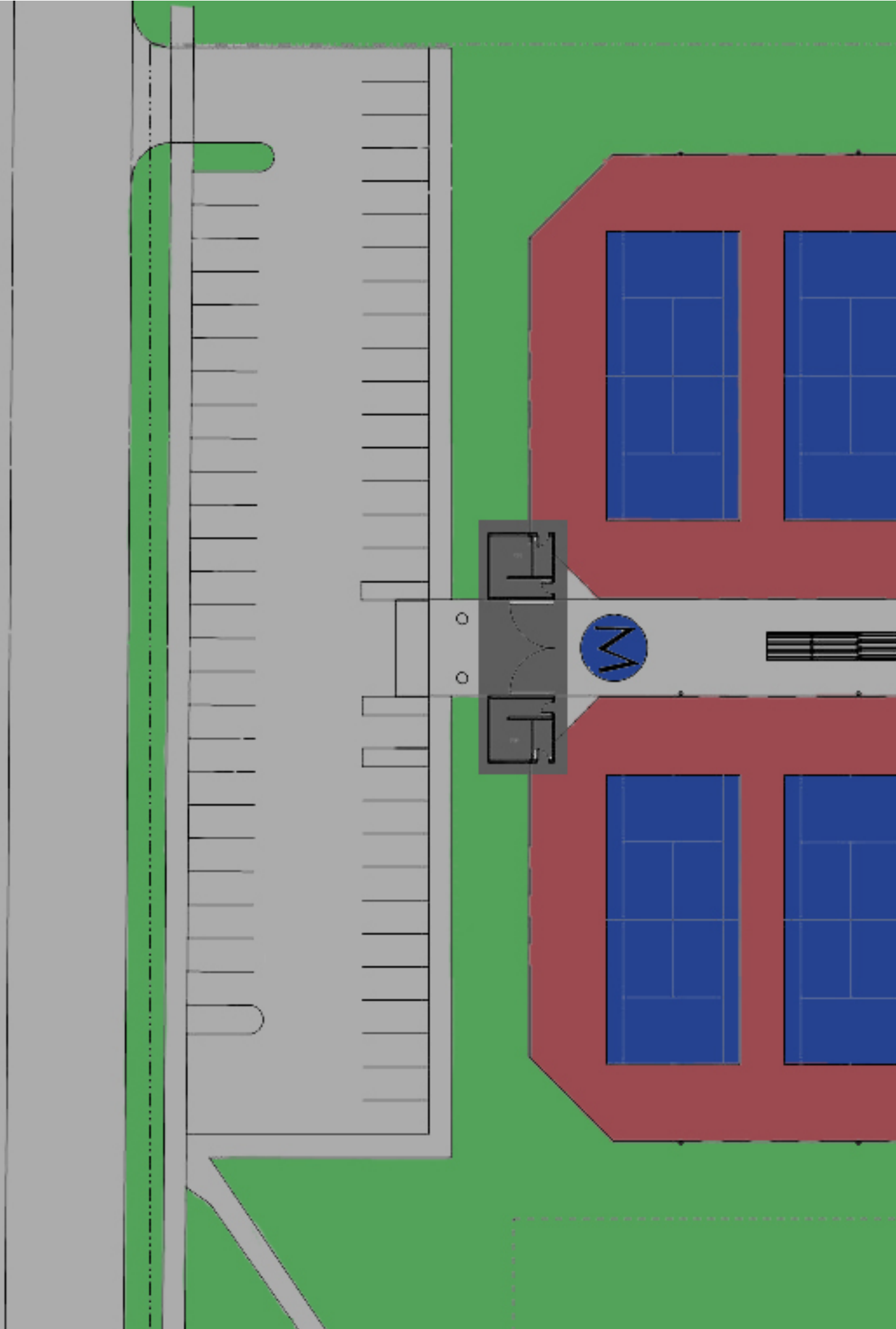
Project Benefits to School & Community

*Three Pickle-ball Courts – Growing Demand In the Marshalltown Pickle-ball Community;

*Addition of Blended Lines (10 & Under) On All Tennis Courts Will Promote & Enhance Youth Development & Usage;

*Availability of twelve tennis courts at Marshalltown High School will make Marshalltown a viable bidder to host future Iowa and Missouri Valley (Midwest Regional) USTA Junior & Adult Tournaments; as well as, conference, district and sub-state level interscholastic competitions – All of these events create significant economic benefit to the community (hotels, restaurants, grocery & retail).





Quiet Zone

From : Karn Gregoire <karn@marthaellentyefoundation.org>

Wed, Sep 18, 2019 03:53 PM

Subject : Quiet Zone

To : clerk@marshalltown-ia.gov

Dear Shari,

The following letter was sent to each Council member but I wanted to also send it to you for the September 23rd City Council meeting. Thank you!

The recently completed Downtown Master Plan was professionally developed to drive forth efforts to make our downtown an attractive place to live, work and play. The destruction from the 2018 tornado has provided us with a once in a lifetime opportunity to build an incredible downtown district. The depth of research which accompanied the recommendations listed within the plan reflects the efforts we need to take to maximize the success of the plan and hence, our community.

According to the plan, "The railroad noise continues to have a negative impact on downtown quality of life and has also been cited as an issue for the future development of new downtown housing and lodging. This Downtown Master Plan recommends the previously designed rail crossing safety improvements from South 12th Street to South 12th Avenue be implemented."

As the consultant's development of the Master Plan, key concerns, needs and interests were gathered through public surveys, focus groups, interviews, website, and charettes. After assembling the public input, it became clear that noise pollution as well as track crossing safety was viewed as an important issue that needed to be resolved. There are approximately 655 horn blasts every day in Marshalltown. While some residents have grown accustomed to the noise, it will continue to influence new developers or residents considering downtown living.

Vision Marshalltown strongly supports the implementation of the Quiet Zone. This infrastructure is a key component to developing the quality of life we know Marshalltown needs and deserves. It has the ability to impact the entire community, especially those living, working and recreating near the railroad tracks.

Thank you for your continued support!

Vision Marshalltown Board of Directors:

Terry Buzbee
Karn Gregoire
Mike Miller
Jenny Etter
Heidi Dalal
Theron Schutte
Abigail Pelzer
Bea Niblock
Julie Hitchins
Kristie Fisher
Joe Carter

(Jessica Kinser and Joel Greer are also on Vision Marshalltown but refrained from voting)

MARSHALLTOWN

— I O W A —

City Administrator's Office

Joel Greer, Mayor
Jessica Kinser, Administrator
Shari L. Coughenour, Clerk
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5799
Fax - (641) 754-5717

To: Mayor Greer and the City Council
From: Jessica Kinser, City Administrator
Date: September 17, 2019
RE: Quiet Zone Follow-up

Since we last talked about Quiet Zones at the July 22nd City Council meeting, we have followed through with the public engagement aspect of this potential project. We issued a 7 question survey and held a public open house at the end of August. As a reminder, the project is proposed to make improvements at each of the four crossings in the community (12th Street, 6th Street, 2nd Street and 12th Avenue), which involve street/sidewalk repairs/replacements as well as costs with Union Pacific to adjust signals in their right-of-way. The total project is estimated at \$1 million, with approximately \$400,000 coming from the Road Use Tax Fund for the street work and the remaining \$600,000 proposed from a 2019 General Obligation bond.

The Quiet Zone survey had 805 responses (both online and paper), which is an impressive amount for a city survey. The attached sheets summarize the responses to each question. In short, the responses were to not proceed with this project by a margin of 55 percent to 45 percent. I was able to analyze some of the data further to look into the individual responses of those who said they did not live in Marshalltown and what those responses did to the overall responses. Of the 126 people who do not live in Marshalltown, 74 stated they were not in favor of the Quiet Zone project, while 52 were in favor of the project. By removing all responses from those not living in Marshalltown, the percentages remain consistent, with 54 percent opposed to the project and 46 percent for the project.

The only surprise in the survey was the question about closing the 2nd Street crossing. Nearly 66 percent of the respondents said they would not mind using the Center Street or 3rd Street viaducts as an alternate route.

While the Quiet Zone study was completed prior to the July 2018 tornado, it was placed on hold as staff took on new priorities. Through the Downtown Master Plan process, the train noise was frequently brought up as a potential impediment to downtown living or businesses like a hotel. This ultimately resulted in a high priority recommendation in the Downtown Master Plan. While Downtown Marshalltown is an important economic driver in this community, as well as a quality of life amenity, there are other amenities that are impacted by the train horns.

The Linn Creek District is quickly becoming a growing recreational area serving all members of the community. The Little League Baseball fields, the Marshalltown Football League fields, the Marshalltown Softball Association fields, the Skatepark, the Linn Creek Trail and the Iowa River Trail are all recreational amenities that help contribute to a high quality of life for residents of Marshalltown. These areas are also seen as economic contributors with multiple tournaments happening at the baseball and softball fields, as well as the future economic benefits that can come from the Iowa River Trail when more distance is available. And the possibilities of the

City Council
Susan Cahill, Michael Gowdy, Al Hoop,
Gabriel Isom, Leon Lamer, Bill Martin, Bethany Wirin



Linn Creek District continue to grow as we think about the future of the Fisher Community Center, the Y Cultural Center, and possible ways for the public to better use and interact with the creek itself. 214 survey responses said that the train horns are a nuisance in these recreational areas, which was more than said that the train horns were a nuisance at their home.

Through the public open house and other communications, the reasons that we have heard for not proceeding with the project fall into the camp of safety or there being better uses of funds. Safety of each of the crossings is positively impacted through enhancements at each of the railroad crossings. The addition of medians in the roadway make it so that a vehicle cannot try to drive around a gate, which someone can currently do and which has happened in Marshalltown resulting in the loss of a life in 2017. The point of there being better uses of funds is one that is certainly true, as each individual has different ideas of what should be a priority in the community. The frequent comment was to spend the money on streets, and we certainly do have a laundry list of street repairs. The Council has prioritized those street repairs and has been borrowing for repairs for years. By choosing to borrow for another project does not replace another street project.

Therefore, I recommend the Council move forward with this project in 2020, and fund this through Road Use Tax dollars and the 2019 General Obligation bond. I also recommend that the Council use this project to close the 2nd Street crossing and resolve a long-standing safety issue.

City Council

Susan Cahill, Michael Gowdy, Al Hoop,
Gabriel Isom, Leon Lamer, Bill Martin, Bethany Wirin



Railroad Safety Improvements
Marshalltown, Iowa

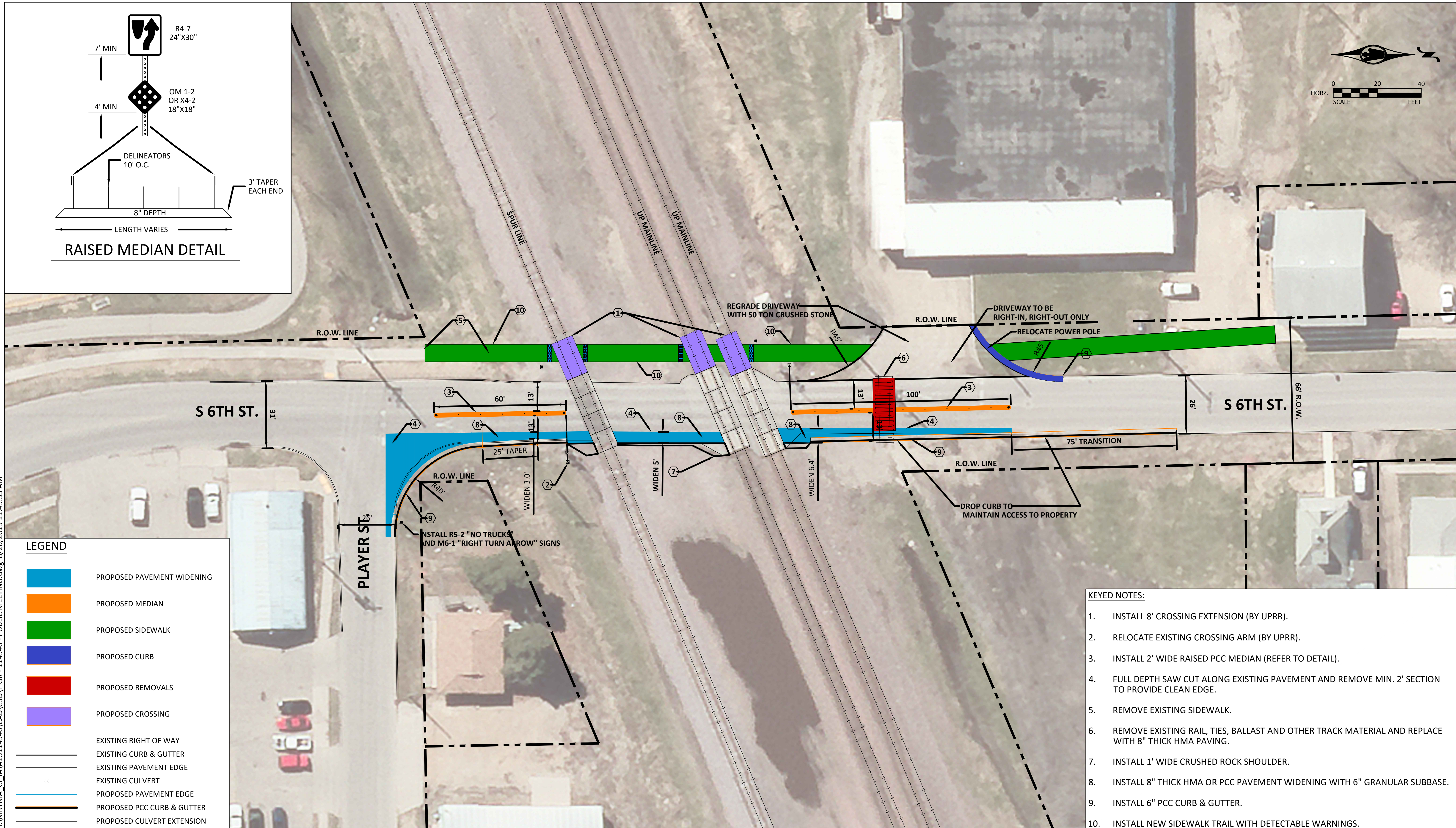
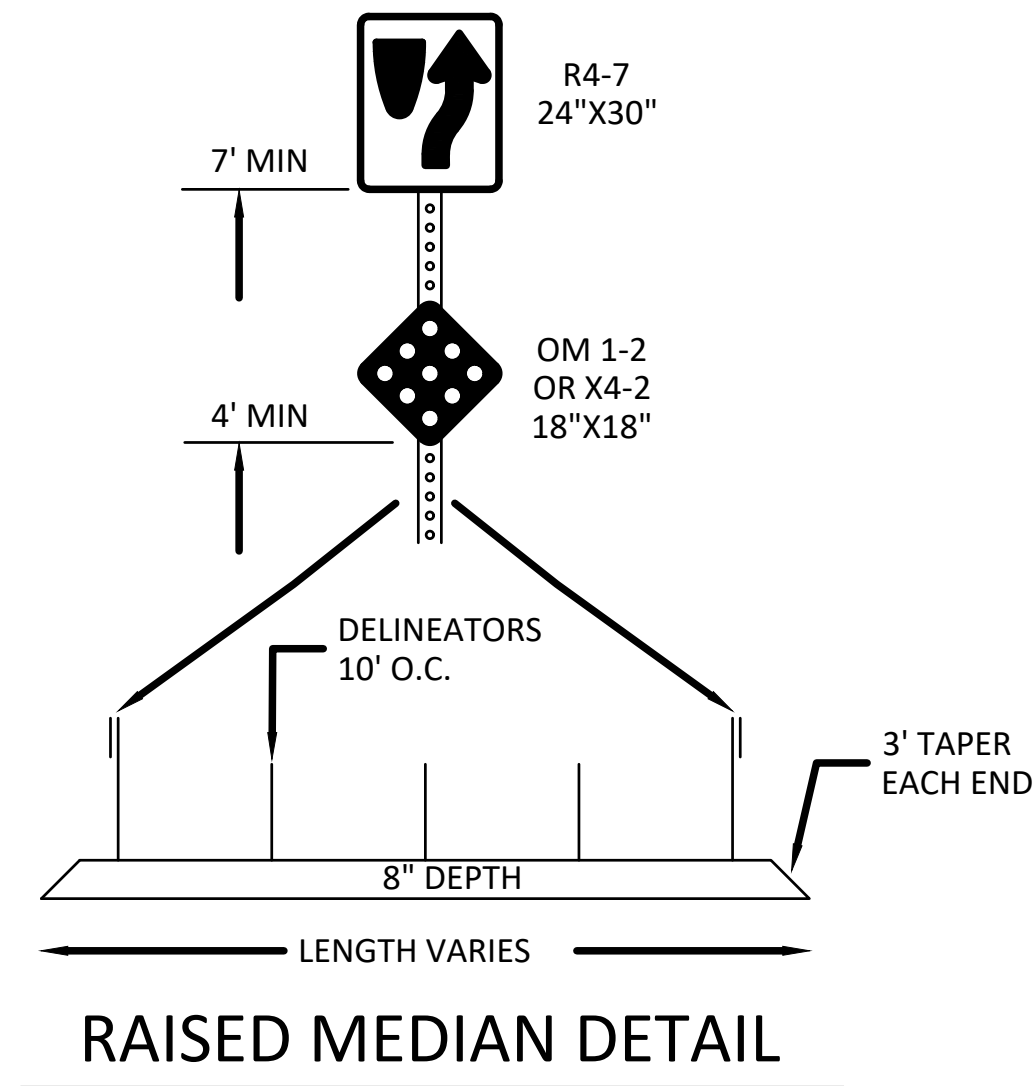
OPINION OF CONSTRUCTION COSTS

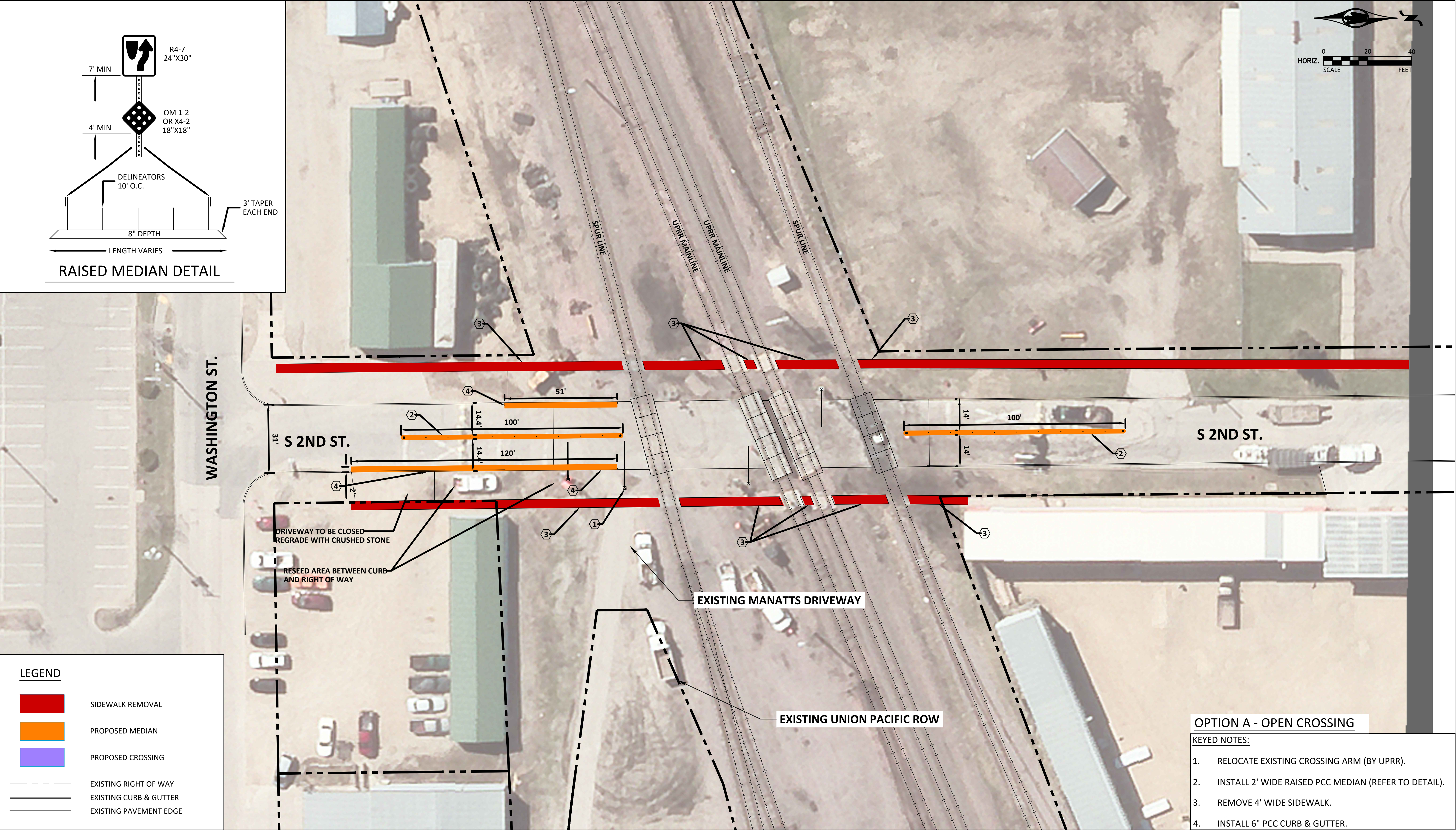
Bolton & Menk, Inc.
Ames, Iowa

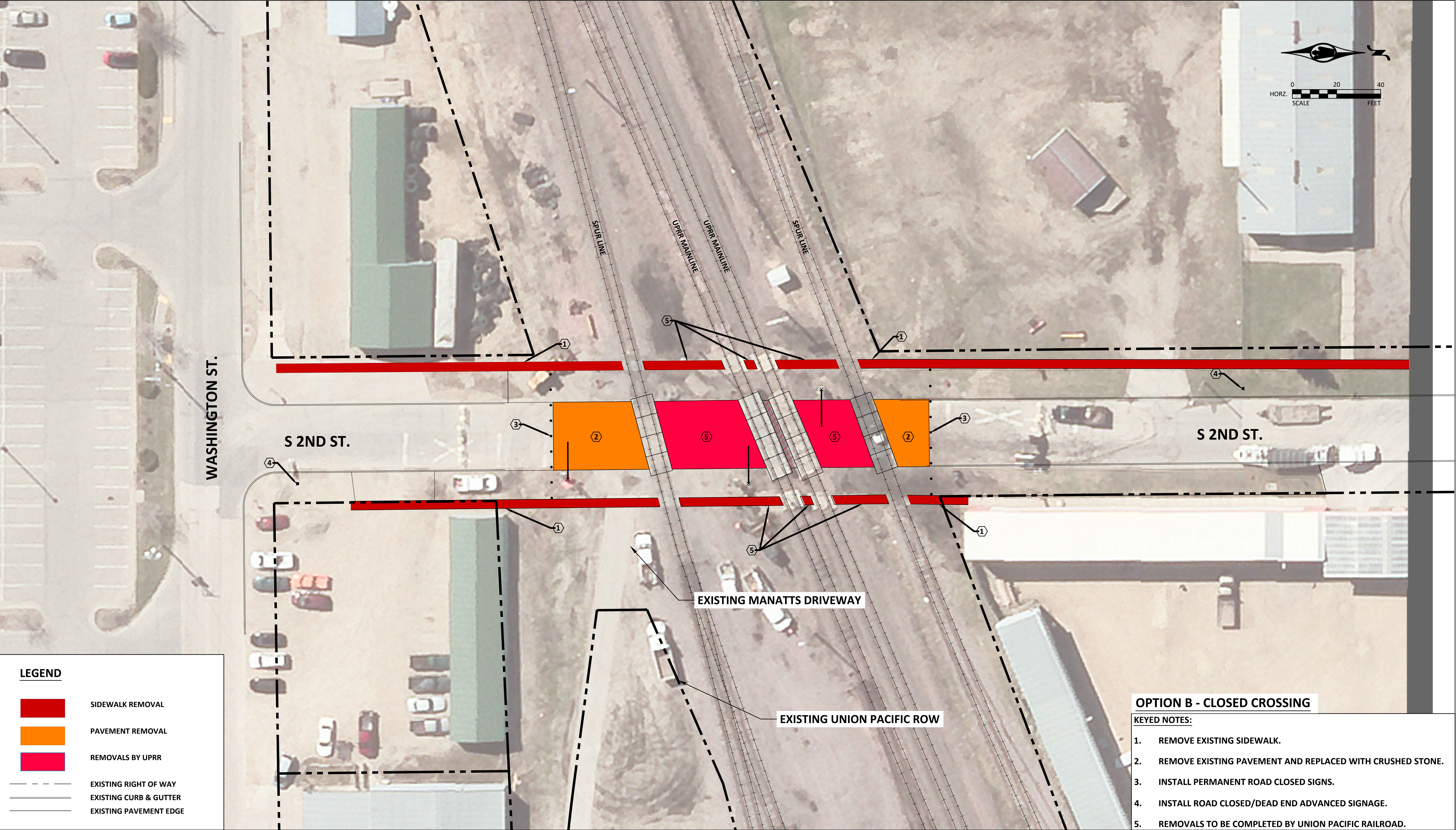
Line No.	Description	Unit	Unit Price	STREET AND RAILROAD CROSSINGS												TOTAL PROJECT (ALT 1)		TOTAL PROJECT (ALT 2)	
				South 12th Street		South 6th Street		South 2nd Street (Alt 1)		South 2nd Street (Alt 2)		South 12th Avenue		Quantity	Extension	Quantity	Extension		
				Quantity	Extension	Quantity	Extension	Quantity	Extension	Quantity	Extension	Quantity	Extension						
1	MOBILIZATION	LS	\$93,000.00	0.25	\$30,800.00	0.25	\$40,700.00	0.25	\$4,900.00	0.25	\$19,800.00	0.25	\$1,700.00	1.00	\$78,100.00	1.00	\$93,000.00		
2	REMOVE PAVEMENT	SY	\$10.00	117.0	\$1,170.00	119.0	\$1,190.00	205.0	\$2,050.00	357.0	\$3,570.00	0.0	\$0.00	441.00	\$4,410.00	593.00	\$5,930.00		
3	REMOVE CONCRETE WALK AND DRIVEWAY	SY	\$10.00	37.0	\$370.00	46.0	\$460.00	257.0	\$2,570.00	257.0	\$2,570.00	0.0	\$0.00	340.00	\$3,400.00	340.00	\$3,400.00		
4	REMOVE EXISTING TRACK	LF	\$100.00	0.0	\$0.00	32.0	\$3,200.00	0.0	\$0.00	0.0	\$0.00	0.0	\$0.00	32.00	\$3,200.00	32.00	\$3,200.00		
5	CONSTRUCT 8" H.M.A. PAVEMENT	SY	\$70.00	288.0	\$20,160.00	163.0	\$11,410.00	0.0	\$0.00	0.0	\$0.00	0.0	\$0.00	451.00	\$31,570.00	451.00	\$31,570.00		
6	CONSTRUCT P.C.C. CURB & GUTTER	LF	\$35.00	0.0	\$0.00	323.0	\$11,305.00	0.0	\$0.00	172.0	\$6,020.00	0.0	\$0.00	323.00	\$11,305.00	495.00	\$17,325.00		
7	CONSTRUCT P.C.C. RAISED MEDIAN	SF	\$12.00	400.0	\$4,800.00	320.0	\$3,840.00	0.0	\$0.00	400.0	\$4,800.00	0.0	\$0.00	720.00	\$8,640.00	1,120.00	\$13,440.00		
8	CONSTRUCT P.C.C. SIDEWALK	SY	\$45.00	0.0	\$0.00	145.0	\$6,525.00	0.0	\$0.00	0.0	\$0.00	0.0	\$0.00	145.00	\$6,525.00	145.00	\$6,525.00		
9	DETECTABLE WARNINGS	SF	\$30.00	80.0	\$2,400.00	64.0	\$1,920.00	0.0	\$0.00	0.0	\$0.00	0.0	\$0.00	144.00	\$4,320.00	144.00	\$4,320.00		
8	SEEDING, PERMANENT	SQ	\$35.00	42.0	\$1,470.00	36.0	\$1,260.00	20.0	\$700.00	20.0	\$700.00	0.0	\$0.00	98.00	\$3,430.00	98.00	\$3,430.00		
9	TRAFFIC CONTROL	LS	\$21,000.00	0.25	\$5,250.00	0.25	\$5,250.00	0.25	\$5,250.00	0.25	\$5,250.00	0.25	\$5,250.00	1.00	\$21,000.00	1.00	\$21,000.00		
10	GRANULAR SUBBASE, ROADSTONE	TON	\$30.00	20.0	\$600.00	61.0	\$1,830.00	150.0	\$4,500.00	17.0	\$510.00	0.0	\$0.00	231.00	\$6,930.00	98.00	\$2,940.00		
11	CULVERT EXTENSION	EACH	\$2,000.00	2.00	\$4,000.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	2.00	\$4,000.00	2.00	\$4,000.00		
12	EROSION AND SEDIMENT CONTROL	LS	\$6,000.00	0.33	\$2,000.00	0.33	\$2,000.00	0.33	\$2,000.00	0.33	\$2,000.00	0.00	\$0.00	1.00	\$6,000.00	1.00	\$6,000.00		
13	SIGNAGE, STRIPING AND SYMBOLS	EACH	\$5,000.00	1.0	\$5,000.00	1.0	\$5,000.00	1.0	\$5,000.00	1.0	\$5,000.00	1.0	\$5,000.00	4.00	\$20,000.00	4.00	\$20,000.00		
14	PROVIDE RAILROAD FLAG CREW	DAY	\$1,500.00	20.00	\$30,000.00	20.00	\$30,000.00	10.00	\$15,000.00	20.00	\$30,000.00	0.00	\$0.00	50.00	\$75,000.00	60.00	\$90,000.00		
15	CONSTRUCTION CONTINGENCIES	LS	\$58,100.00	0.25	\$21,700.00	0.25	\$25,200.00	0.25	\$8,400.00	0.25	\$9,700.00	0.25	\$1,500.00	1.00	\$56,800.00	1.00	\$58,100.00		
	SUBTOTAL				\$129,720.00		\$151,090.00		\$50,370.00		\$89,920.00		\$13,450.00		\$344,630.00		\$384,180.00		
16	RAILROAD CROSSING EXTENSION, 8' WIDTH	EACH	\$25,000.00	3	\$75,000.00	6	\$150,000.00	0	\$0.00	0	\$0.00	0	\$0.00	9	\$225,000.00	9	\$225,000.00		
17	RELOCATE EXISTING CROSSING GATE	EACH	\$100,000.00	1	\$100,000.00	1	\$100,000.00	0	\$0.00	1	\$100,000.00	0	\$0.00	2	\$200,000.00	3	\$300,000.00		
18	UP PERMITS	LS	\$15,000.00	0.25	\$3,750.00	0.25	\$3,750.00	0.25	\$3,750.00	0.25	\$3,750.00	0.25	\$3,750.00	1	\$15,000.00	1	\$15,000.00		
	SUBTOTAL				\$178,750.00		\$253,750.00		\$3,750.00		\$103,750.00		\$3,750.00		\$440,000.00		\$540,000.00		
	TOTAL OPINION OF CONSTRUCTION COSTS				\$308,470.00		\$404,840.00		\$54,120.00		\$193,670.00		\$17,200.00		\$784,630.00		\$924,180.00		
ENGINEERING,SURVEYING AND CONSTRUCTION ADMINISTRATION:															\$142,000.00		\$167,000.00		
TOTAL OPINION OF COSTS:															* \$926,630.00		** \$1,091,180.00		

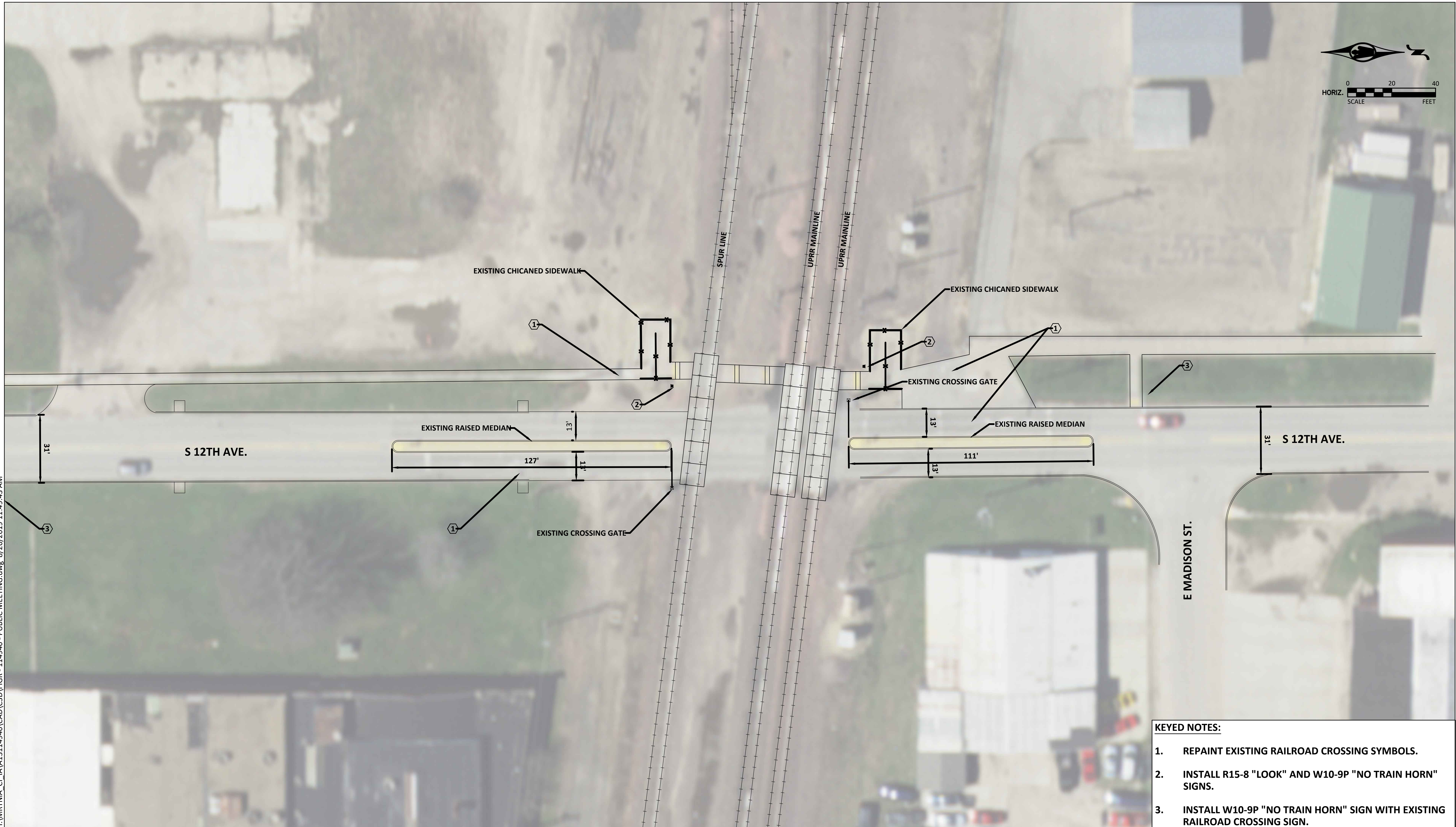
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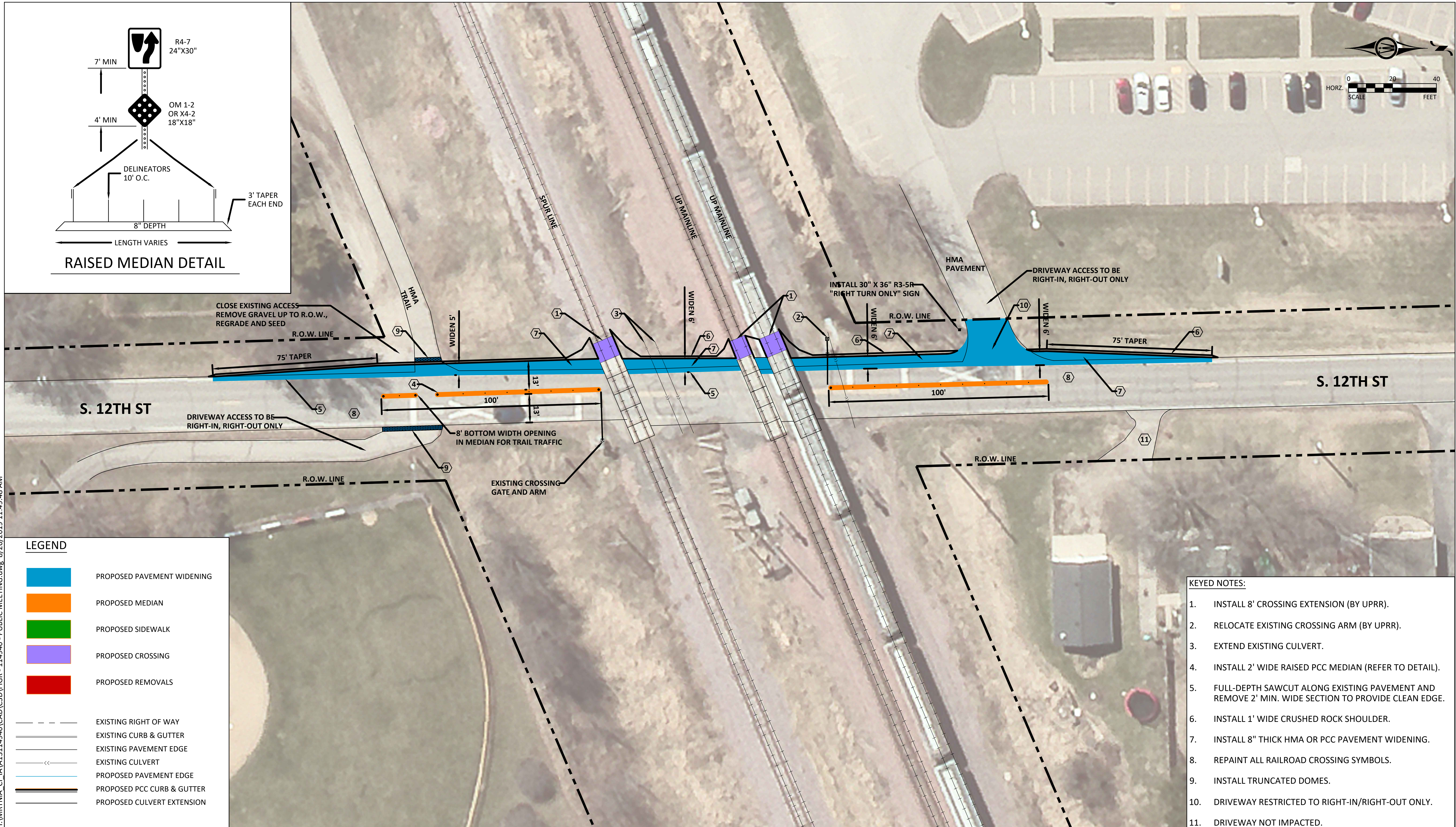
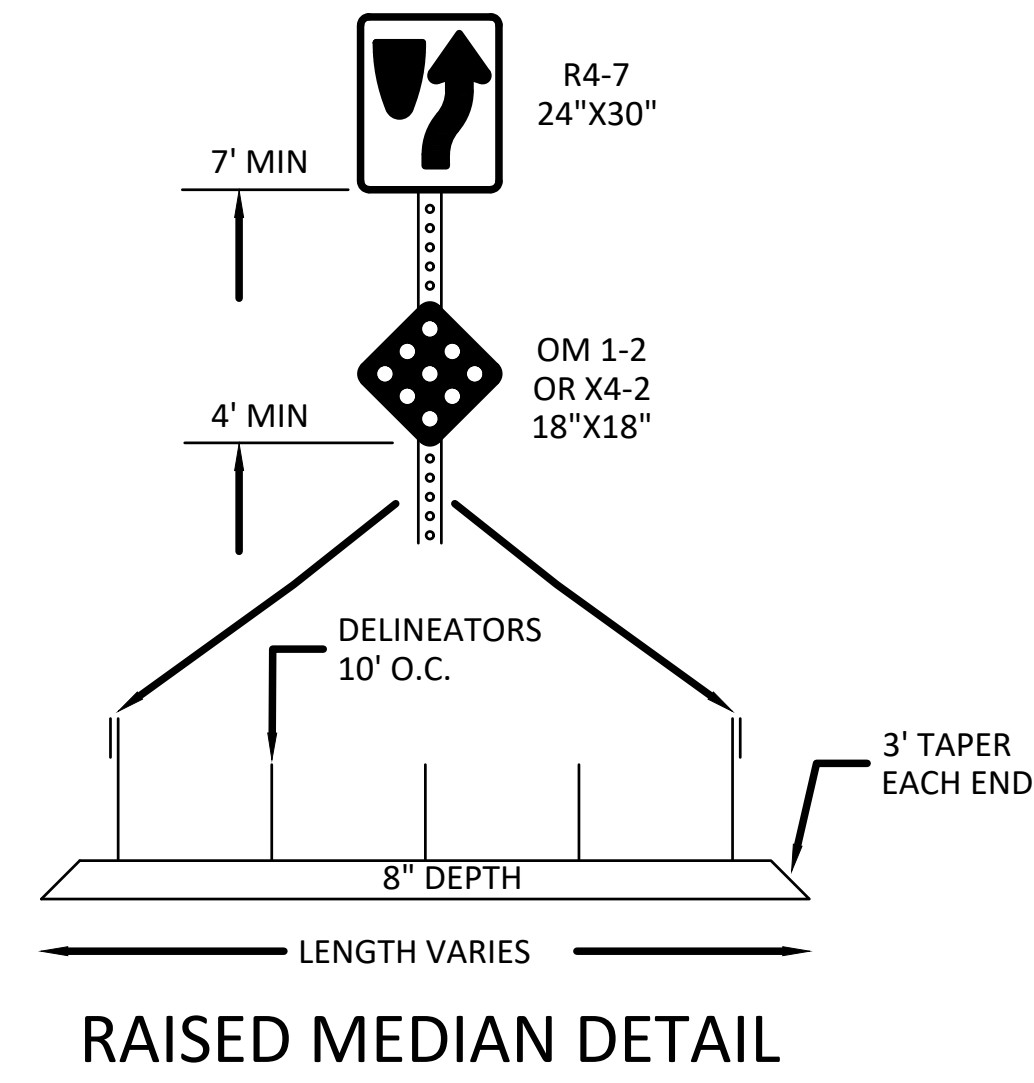
* Closure of 2nd Street
** Install SSM's at 2nd Street











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MARSHALLTOWN

— I O W A —

Joel Greer, Mayor
Jessica Kinser, Administrator
Diana Steiner, Finance Director
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5760
Fax - (641) 754-5781

FINANCE DEPARTMENT

September 20, 2019

To: Mayor Joel Greer
Members of the City Council

From: Diana Steiner, Finance Director

Re: Amount to borrow for CY2019

Policy Issue: Council must decide on what projects to fund and approve any amounts to be borrowed.

Recommendation: Staff need direction on what projects to fund using bond funds and at what level. Staff is not proposing any borrowing for street work for calendar year 2020 as we will continue to use funds on hand. This includes \$500,000 in 2018 GO Bonds and a \$350,000 annual allocation from the Road Use Tax Fund. We will also be undertaking a FEMA-funded project for the repair of a number of streets located on the northeast side of Marshalltown. This project will include a mill and overlay, curb replacement, and sidewalk replacement. We are able to leverage FEMA and State funding for 85% of the mill and overlay, and Road Use Tax for the rest of the project.

Background: Staff have identified numerous projects that could be funded through a bond issuance.

Project	Estimated Cost	Options
<i>MCSD Tennis Court Project</i>	700,000	Placeholder pending Council discussion
<i>Quiet Zone Project</i>	600,000	Placeholder pending Council discussion
Timber Creek Bridge Replacement	500,000	
West End Park- Phase 1	425,000	
East Merle Hibbs- Phase 1	5,000,000	A portion could be repaid by TIF #3
Trail Resurfacing- 6th St to Marion	200,000	
Sidewalk Gaps- Years 2	375,000	Could reallocate 18GO funds
Anson Park Shelter/Restrooms	300,000	
MSA Parking Lot Repaving- West End	250,000	
4th Street/Meadow Lane Stormwater Project	2,600,000	Repaid by Stormwater Fund
TOTAL	10,950,000	

Under State statute, a city cannot borrow more than 5% of the assessed amount of property tax valuations. In addition, the Council has set an additional limit to not exceed 60% of the State limit. Therefore, the maximum amount that could be borrowed in calendar year 2019 is \$8,486,164.

	<u>Debt Margin</u>		<u>Existing Debt</u>
Property assessed valuations	\$ 1,651,195,822		
	5%		
Debt Limit per state statute	\$ 82,559,791	Outstanding GO debt principal	\$ 37,309,408
	60%	Development Agreements	\$ 3,740,303
Council imposed limit	\$ 49,535,875		\$ 41,049,711
Maximum amount left to borrow		\$ 8,486,164	

Since the maximum amount that could be borrowed is less than the total projects identified above, please provide direction as to what projects you want to fund and at what level.

Budget Impact: Debt paid for with property tax revenues affects the property tax levy rate.

Attachment: N/A

cc: Jessica Kinser, City Administrator

MARSHALLTOWN

— I O W A —

City Administrator's Office

Joel Greer, Mayor
Jessica Kinser, Administrator
Shari L. Coughenour, Clerk
24 North Center Street
Marshalltown, IA 50158-4911
Tel - (641) 754-5799
Fax - (641) 754-5717

To: Mayor Greer and the City Council
From: Jessica Kinser, City Administrator
Date: September 19, 2019
RE: New Construction Incentive

At our second meeting in July, Council Member Lamer had suggested the City seek to provide an incentive for new construction projects in the downtown similar to that which renovation projects are eligible for through the incentive grants through MCBF. After further discussion with some known new construction projects and looking at available resources, I would like to request the City Council set aside \$250,000 in Council-designated LOST. At this time, I can think of 3 new construction projects highly likely to occur, which are \$1 million or more in estimated construction costs.

To come up with the amount of \$50,000, I looked at the maximums available under the MCBF Incentive Grants. The maximum amount for Code Compliance is \$20,000 and the maximum for the Façade Grant is \$25,000. Each has different conditions dictating how you get to the maximum amount, but in a new construction project, we would not need to dictate those conditions.

I would recommend the following eligibility requirements:

- The building be located in the Downtown Urban Renewal Area #4
- The construction value should be \$1 million at a minimum
- The building comply with all design standards

This grant would likely be part of a larger agreement for other funds, as the likelihood of additional public support for these initial projects is going to be greater than future projects. This was stated multiple times during the Downtown Master Plan process many times.

If this is something you would like to move forward with, I would request additional feedback on eligibility requirements in order to move this forward to be approved on a resolution at the October 14th meeting.

City Council
Susan Cahill, Michael Gowdy, Al Hoop,
Gabriel Isom, Leon Lamer, Bill Martin, Bethany Wirin

