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Iowa Codification, Inc.
P. O. Box 141
610 Buddy Holly Place
Clear Lake, Iowa  50428
# GENERAL CODE PROVISIONS

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Fairfax, Iowa, 2017.

(Ord. 01 – Jan. 18 Supp.)

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Fairfax, Iowa.
3. “Clerk” means the city clerk of Fairfax, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
6. “Council” means the city council of Fairfax, Iowa.
7. “County” means Linn County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

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“Ordinances” means the ordinances of the City of Fairfax, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)
1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars ($65.00) but not to exceed six hundred twenty-five dollars ($625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

(Code of Iowa, Sec. 364.3[2] and 903.1[1a])

(Ord. 94 – Nov. 09 Supp.)
CHAPTER 2

CHARTER

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

† EDITOR’S NOTE: Ordinance No. 19 adopting a charter for the City was passed and approved by the Council on May 5, 1973, and was published on May 10, 1973, in the Cedar Rapids Gazette, Cedar Rapids, Iowa.
CHAPTER 3
MUNICIPAL INFRACTIONS

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

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

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

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

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

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

(Code of Iowa, Sec. 364.22 [1])
1. Standard Civil Penalties.
   A. First Offense.........................$500.00
   B. Second Offense.......................$750.00
   C. Third and Subsequent Offenses...$750.00

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

2. Special Civil Penalties.
   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars ($1,000.00) for each day a violation exists or continues.
   B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars ($1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
      (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
      (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
      (3) The violation does not continue in existence for more than eight (8) hours.

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

   (Code of Iowa, Sec. 364.22[4])
1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.

(Ord. 95 – Nov. 09 Supp.)

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

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

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

(Code of Iowa, Sec. 364.22[11])
[The next page is 21]
CHAPTER 5

OPERATING PROCEDURES

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

   A. Mayor
   B. City Clerk
   C. Members of all boards, commissions or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)
2. Bonds Approved. Bonds shall be approved by the Council.
   *(Code of Iowa, Sec. 64.19)*

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

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

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

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

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

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

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

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

3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and
information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 68B.22)
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6.01 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

(Code of Iowa, Sec. 376.8[3])
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CHAPTER 7

FISCAL MANAGEMENT

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

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

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

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

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

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

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

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

2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.  
   (IAC, 545-2.5 [384,388], Sec. 2.5[2])

4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.  
   (IAC, 545-2.5[384,388] Sec. 2.5[3])

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.  
   (IAC, 545-2.5[384,388] Sec. 2.5[4])

6. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Emergency Fund and Road Use Tax Funds, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted retained earnings calculated in accordance with generally accepted accounting principles in excess of:
   A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and
   B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.  
   (IAC, 545-2.5[384,388], Sec. 2.5[5])

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance
CHAPTER 7  FISCAL MANAGEMENT

officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 384.22)*
CHAPTER 8

URBAN RENEWAL

EDITOR’S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.

<table>
<thead>
<tr>
<th>ORDINANCE NO.</th>
<th>ADOPTED</th>
<th>NAME OF AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>217</td>
<td>November 10, 1998</td>
<td>Fairfax Urban Renewal Area</td>
</tr>
<tr>
<td>240</td>
<td>November 13, 2001</td>
<td>2001 Addition to the Fairfax Urban Renewal Area</td>
</tr>
<tr>
<td>57</td>
<td>July 11, 2006</td>
<td>2006 Addition to the Fairfax Urban Renewal Area</td>
</tr>
<tr>
<td>114</td>
<td>January 25, 2011</td>
<td>2011 Addition to the Fairfax Urban Renewal Area</td>
</tr>
<tr>
<td>122</td>
<td>September 13, 2011</td>
<td>Amend Ord. 114 to correct legal description of property in the 2011 Addition to the Fairfax Urban Renewal Area</td>
</tr>
<tr>
<td>53</td>
<td>May 9, 2017</td>
<td>2017 Amendment to the Fairfax Urban Renewal Area</td>
</tr>
</tbody>
</table>
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CHAPTER 15

MAYOR

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

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.
6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.

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

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

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Library Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is seven thousand five hundred dollars ($7,500.00) per year, payable quarterly. Effective January 1, 2020, the salary of the Mayor shall be eight thousand dollars ($8,000.00) per year, payable quarterly.

(Ord. 30 – Dec. 19 Supp.)

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

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.

(Code of Iowa, Sec. 372.4)
CHAPTER 16

MAYOR PRO TEM

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[8])
CHAPTER 17

COUNCIL

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

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

(Code of Iowa, Sec. 372.13[4])
7. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the beginning of the term of the Council members elected at the election next following the change in compensation.

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

(Code of Iowa, Sec. 380.6[1b])
C. A motion becomes effective immediately upon passage of the motion by the Council.
   (Code of Iowa, Sec. 380.6[1c])

D. If the Mayor vetoes an ordinance, amendment or resolution and the Council repasses the measure after the Mayor’s veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.
   (Code of Iowa, Sec. 380.6[2])

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen (14) days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.
   (Code of Iowa, Sec. 380.6[3])

“All of the members of the Council” refers to all of the seats of the Council including a vacant seat and a seat where the member is absent, but does not include a seat where the Council member declines to vote by reason of a conflict of interest.
   (Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk. Special meetings that are requested by someone other than the Mayor or Council shall give the City a notice of two (2) business days. The Mayor and each member of the Council shall be notified of such meeting and have the opportunity to set the date and time of such
meeting. The party (other than the City) requesting the special meeting shall pay the Clerk a flat fee of four hundred dollars ($400.00) at that meeting. In the event there are additional requests to be placed on the agenda, it will be Council discretion as to how the fee will be assessed among the parties in attendance.  

(Ord. 28 – Apr. 05 Supp.)

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

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

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


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

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

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission
4. Zoning Board of Adjustment
5. Airport Zoning Commission
6. Airport Zoning Board of Adjustment
7. Building Inspector

17.06 COMPENSATION. The salary of each Council member is fifty dollars ($50.00) for each meeting of the Council attended, payable quarterly. Effective January 1, 2018, the salary of each Council member is seventy five dollars ($75.00) for each meeting of the Council attended, payable quarterly.  

(Ord.31 – Oct. 17 Supp.)

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

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CHAPTER 18

CITY CLERK

18.01 APPOINTMENT AND COMPENSATION. At its first meeting in January following the regular city election the Council shall appoint by majority vote a City Clerk to serve for a term of two (2) years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

Fairfax Public Library
U. S. Post Office
City Hall

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

(Code of Iowa, Sec. 372.13[4])
3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption or replacement of public bonds or obligations shall be kept for at least eleven (11) years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[4])
18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.
   
   (Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.
   
   (Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.
   
   (Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.
   
   (Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o’clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.
   
   (Code of Iowa, Sec. 376.4)

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “CORPORATE SEAL” and around the margin the words “CITY OF FAIRFAX, FAIRFAX, IOWA.”
CHAPTER 19

CITY TREASURER

19.01 APPOINTMENT. The City Clerk is the Treasurer and performs all functions required of the position of Treasurer.

19.02 COMPENSATION. The Clerk receives no additional compensation for performing the duties of the Treasurer.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

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

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

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

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

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

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

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

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

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

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

CODE OF ORDINANCES, FAIRFAX, IOWA
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20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[4])
20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

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

(Code of Iowa, Sec. 372.13[4])
CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) resident members, one (1) nonresident member, and one (1) at large member. All resident members are to be appointed by the Mayor with the approval of the Council. All nonresident members are to be appointed by the Mayor with the approval of the Linn County Board of Supervisors. (Ord. 17 – Dec. 19 Supp.)

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City of Fairfax, Iowa. The nonresidential member of the Board shall be a bona fide citizen and resident of the unincorporated Linn County, Iowa. The at large member of the Board shall be a bona fide citizen of either the City of Fairfax, Iowa, or of unincorporated Linn County, Iowa. Members shall be the age of eighteen (18) years or older. (Ord. 17 – Dec. 19 Supp.)

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number of the Board or as near as possible, to stagger the terms. There shall be a limit of two consecutive terms, with a minimum of one year absence from the Board before being eligible to be appointed again.

2. Vacancies. The position of any resident Trustee shall be vacated if such member moves from the City of Fairfax, Iowa. The position of a nonresident Trustee shall be vacated if such member moves from the unincorporated areas of Linn County. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of illness or temporary
absence. Vacancies in the Board shall be filled in the same manner as an
original appointment except that the new Trustee shall fill out the
unexpired term for which the appointment is made.

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

(Section 21.04 – Ord. 17 – Dec. 19 Supp.)

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

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

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

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

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

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

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

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

8. Rules and Regulations. To make and adopt, amend, modify or
repeal rules and regulations, not inconsistent with this Code of
Ordinances and the law, for the care, use, government and management
of the Library and the business of the Board, fixing and enforcing
penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

21.07 NONRESIDENT USE. The Board may authorize the use of the
Library by persons not residents of the City or County in any one or more of the
following ways:

1. Lending. By lending the books or other materials of the Library
to nonresidents on the same terms and conditions as to residents of the
City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or
other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library
so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending
books or other Library materials to nonresidents.

21.08 EXPENDITURES. All money appropriated by the Council for the
operation and maintenance of the Library shall be set aside in an account for the
Library. Expenditures shall be paid for only on orders of the Board, signed by
its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

21.09 ANNUAL REPORT. The Board shall make a report to the Council
immediately after the close of the fiscal year. This report shall contain
statements as to the condition of the Library, the number of books added, the
number circulated, the amount of fines collected, and the amount of money
expended in the maintenance of the Library during the year, together with such
further information as may be required by the Council.

21.10 INJURY TO BOOKS OR PROPERTY. It is unlawful for a person
willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in
whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture
or other property belonging to the Library or reading room.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

21.12 NOTICE POSTED. There shall be posted in clear public view within
the Library notices informing the public of the following:
1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

   (Code of Iowa, Sec. 714.5)

2. Detention and Search. Persons concealing Library materials may be detained and searched pursuant to law.

   (Code of Iowa, Sec. 808.12)
CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

22.04 COMPENSATION. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)
3. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes or modifications, all as provided by Chapter 414 of the Code of Iowa.

(Code of Iowa, Sec. 414.6)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)
8. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.  

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)
CHAPTER 30

CONTRACT LAW ENFORCEMENT

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

(Code of Iowa, 28E.30)
CHAPTER 35

FIRE DEPARTMENT

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 Election of Officers. The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of the Fire Chief shall be subject to the approval of the Council. The Council shall be furnished the department’s attendance records for drills, meetings and fires, and shall give due consideration to such records in approving the appointment of Fire Chiefs. The volunteer fire department, with approval of the Council, may remove the Fire Chief by written order, setting out the reasons for removal, which shall be filed with the Clerk. In case of
absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

35.07 FIRE CHIEF: DUTIES. The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including but not limited to the following:

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department’s duties.

(Code of Iowa, Sec. 102.2)

4. Control of Scenes. Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

7. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars ($200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal’s Division immediately. For all other fires causing an estimated damage of fifty dollars ($50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal’s Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

35.09 CONSTITUTION. The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such
35.10 **ACCIDENTAL INJURY INSURANCE.** The Council shall contract to insure the City against liability for worker’s compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

*(Code of Iowa, Sec. 85.2, 85.61 and Sec. 410.18)*

35.11 **LIABILITY INSURANCE.** The Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.

*(Code of Iowa, Sec. 670.2 & 517A.1)*

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

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

35.13 **PROPERTY TO BE PROTECTED.** The department shall answer all calls within the City and shall further answer all calls to property located in any township having a valid contract for fire protection with the City.

35.14 **MUTUAL AID.** Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

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

35.15 **AUTHORITY TO CITE VIOLATIONS.** Fire officials acting under the authority of Chapter 100 of the Code of Iowa may issue citations in accordance to Chapter 805 of the Code of Iowa, for violations of state and/or local fire safety regulations.

*(Code of Iowa, Sec. 100.41)*

35.16 **FIRST RESPONDERS SERVICE.** The department is authorized to provide emergency first responders services and the accidental injury and liability insurance provided for herein shall include such operation.
CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

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

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

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

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

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

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

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

   (Code of Iowa, Sec. 455B.381[5])
4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

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

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

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

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

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

4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

(Ord. 96 – Nov. 09 Supp.)

36.05 NOTIFICATIONS.

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

2. Any other person who discovers a hazardous condition shall notify the Linn County Sheriff’s Department, which shall then notify the Department of Natural Resources.

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

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

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

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

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].
[The next page is 185]
40.01 ASSAULT. No person shall, without justification, commit any of the following:

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:
A. Communicates with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

(Code of Iowa, Sec. 723.4 [2])
3. Abusive Language. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)
CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

(Code of Iowa, Sec. 727.1)

41.02 False Reports to or Communications with Public Safety Entities. No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

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

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

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

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

(Code of Iowa, Sec. 719.2)
41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer’s or employee’s duty.

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

2. No person shall intentionally discharge a firearm in a reckless manner.
41.10 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without written consent of the Council.

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

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

41.12 FIREWORKS. (Repealed by Ordinance No. 59 – Jan. 18 Supp.)

41.13 DRUG PARAPHERNALIA.

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

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

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

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

(Code of Iowa, Sec. 124.414)
CHAPTER 42
PUBLIC AND PRIVATE PROPERTY

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has
accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 CLIMBING WATER TOWER. No person, without authority from the Council or the Water Superintendent, shall climb the City water tower, or in any manner damage the City water pumping system, the electrical supply to said pump, or the building housing said pump or the equipment therein. Those persons authorized by the Council or the Water Superintendent may climb the water tower, but they must be equipped with their own safety climbing devices.

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CHAPTER 43

SEX OFFENDERS

(CH. 43 REPEALED BY ORDINANCE NO. 97 – NOV. 09 SUPP.)
CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
   A. “Arrest” means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.
   B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
   C. “Peace Officer” means the same as defined in Section 801.4 of the Code of Iowa.
   D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. (See Section 62.08 of this Code of Ordinances.)
CHAPTER 46

MINORS

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

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

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

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

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

   D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other
responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

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

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of eleven o’clock (11:00) p.m. and five o’clock (5:00) a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of twelve o’clock (12:00) midnight and five o’clock (5:00) a.m. on Saturday and Sunday.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

5. Enforcement Procedures.

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

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person’s own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.
C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

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

6. Penalties.

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

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

C. Minor’s First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer’s discretion, may issue the minor a citation for a first violation.

D. Minor’s Second Violation. For the minor’s second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

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

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

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

(Code of Iowa, Sec. 709A.1)
CHAPTER 47
PARK REGULATIONS

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person shall enter or remain within any park between the hours of ten o’clock (10:00) p.m. and six o’clock (6:00) a.m.

47.06 OFF-LEASH DOG PARK. The City of Fairfax provides an off-leash dog park area. The following rules and regulations apply to all users of this area:

1. All dogs must be registered with a Fairfax Dog Park ID# before using the Fairfax Off-Leash Dog Park.
2. Handlers must be 16 years of age or older.
3. No children under age 8 are allowed inside the off-leash dog park fencing. Ages 8-15 must be accompanied by a person age 18 or older.
4. Handlers must wear a Fairfax Dog Park ID lanyard, valid for the dog they have with them, in view of others.
5. Handlers must pick up and properly dispose of any dog waste their animal causes.
6. Handlers must carry a leash for each dog (with a maximum of two dogs per handler).
7. Handlers must remain in the dog park with and in control of their dog(s).
8. Handlers must remove dog(s) at first sign of aggression.
9. Handlers must discourage dominating behavior and excessive barking.
10. Owners and handlers are responsible and liable for any damage caused by their dog(s) while visiting the Fairfax Off-Leash Dog Park.
11. Dogs must be leashed while entering and existing the Fairfax Off-Leash Dog Park.
12. Dogs must be off leash inside the main yard.
13. Dogs in the small dog yard must be less than 15 inches at the shoulder.
14. Dogs must be under a handler’s control and in their sight.
15. Dogs involved in an incident should be leashed and removed immediately.
16. The following are not allowed in the Fairfax Off-Leash Dog Park:
   A. Glass
   B. Food (except water)
   C. Wheels (except wheelchairs)
   D. Aggressive or vicious dogs
   E. Dogs in heat
   F. Puppies less than four months old
   G. Animals (except dogs)
   H. Pinch, prong, or spike type collars
17. If your dog is involved in an unpleasant experience (no injury) with another dog or person, please leave the park for the day.
18. If you dog is vicious to another dog or person or involved in an unpleasant experience (with injury) contact the Linn County Sheriff’s Department.
19. For enforcement or park rules, please contact City Hall to file a complaint.
20. The Fairfax City Council shall approve all forms and set fees by resolution.

(Ch. 47 – Ord. 8 – Dec. 18 Supp.)
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CHAPTER 50

NIUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

(Code of Iowa, Sec. 657.1)

50.02 Nuisances Enumerated. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

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

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

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

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

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct
and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof.  (See also Section 62.09)

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

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

9. Grass, Weeds, Brush. Dense growth of all grass, weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard. Each owner and each person in possession or control of any property shall be responsible to keep said lot mowed.

(Ord. 22 – Sep. 04 Supp.)

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

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

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

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

1. Dangerous Buildings (See Chapter 145)
2. Storage and Disposal of Solid Waste (See Chapter 105)
3. Trees (See Chapter 151)
50.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.†

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

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

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists.

† EDITOR’S NOTE: A suggested form of notice for the abatement of nuisances is included in the appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the Code of Iowa rather than this procedure.
and it must be abated as ordered. The hearing will be before the Council at a
time and place fixed by the Council. The findings of the Council shall be
conclusive and, if a nuisance is found to exist, it shall be ordered abated within
a reasonable time under the circumstances.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

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

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

2. “Hobby vehicle” means an unlicensed motor vehicle, including but not limited to dragsters, stock cars, Indy-type racers, midget racers, all-terrain vehicles, dune buggies, go-carts, or competition pulling garden or farm tractors. For the purpose of this chapter, golf carts, boat trailers, common utility trailers, camping trailers or snowmobile trailers are not considered hobby vehicles.

3. “Junk vehicle” means any vehicle which has any of the following characteristics:

   A. Inoperable. Any vehicle not capable of being driven upon a public road under manufacturer’s specifications.

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

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

   D. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

   E. Unlicensed. Any vehicle that is not currently licensed.
Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

4. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

51.02 JUNK, HOBBY VEHICLES AND JUNK VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk, a hobby vehicle or a junk vehicle.

51.03 JUNK, HOBBY VEHICLES AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk, hobby vehicle or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa and Chapter 50 of this Code of Ordinances. If any junk, hobby vehicle or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

51.04 EXCEPTIONS. The provisions of this chapter shall not apply to junk, hobby vehicle or junk vehicle located within a garage or other completely enclosed structure. The provisions of this chapter shall not apply to a hobby vehicle or junk vehicle located upon any of the following premises as long as the premises is not in violation of any provision of this Code of Ordinances:

1. Authorized vehicle recycler (as defined in Iowa Code Chapter 321H); or
2. Licensed motor vehicle dealership (as defined in Iowa Code Chapter 322); or
3. Motor home and travel trailer dealership (as defined in Iowa Code Chapter 322C); or
4. Farm implement dealership (as defined in Iowa Code Chapter 322d); or
5. Motorcycle, snowmobile, ATV, and/or other recreational vehicle dealership (as defined in Iowa Code Section 321.1(40) and Iowa Code Chapter 321G); or
6. Motor vehicle franchiser and franchisee (as defined in Iowa Code Chapter 322A); or
7. Towing Services Company licensed to operate as such through the Iowa Department of Transportation; or
8. A vehicle under active repair parked upon the driveway of a residentially zoned property not having a garage, provided the owner has notified City Officials in writing of the owner’s intent to actively repair the vehicle and the repairs are completed within thirty (30) days of the notification; or
9. Construction vehicles that are stored; or
10. Commercial areas approved for outside storage; or
11. A business whose primary function is the sale of, manufacture of or repair of one or more of the above listed hobby vehicles.

A hobby vehicle or junk vehicle shall not be placed at any of the above listed commercial properties for more than 180 days. Any of the above listed businesses may apply for a one-time 10-day extension of this time limit by contacting the City Clerk’s Office.

51.05 RIGHT OF ENTRY. The Linn County Sheriff, his/her authorized representative, and/or the person, firm or corporation designated to abate nuisances pursuant to this chapter and this Code of Ordinances, are hereby authorized to access any property upon which junk, a hobby vehicle or a junk vehicle is located for the purpose of carrying out any and all actions required by this chapter, at the City’s direction.

51.06 NOTICE TO ABATE. Upon discovery of any junk, hobby vehicle or junk vehicle located on private property in violation of this chapter, the City Clerk or his/her duly authorized representative shall notify, in writing, the owner of the property upon which the vehicle is located and the owner of the vehicle, if known, that:

1. The junk, hobby vehicle or junk vehicle constitutes a nuisance under the provision of this chapter; and
2. The junk, hobby vehicle or junk vehicle must be removed in accordance with the provisions of Section 51.08 of this chapter or repair the vehicle and properly display current registration, plates or stickers for the vehicle within 20 days; and
3. Failure to abate nuisance as prescribed by the notice shall be sufficient cause for removal of the junk, hobby vehicle or junk vehicle by the City as set forth in Section 51.09 of this chapter.
51.07 SERVICE OF NOTICE. Any notice shall be deemed to be properly served when a copy thereof is delivered to him/her personally or by certified mail with return receipt requested to his/her last known address. If the City selects service by certified mail, notice shall be deemed given when mailed.

51.08 DUTY OF OWNER TO REMOVE OR REPAIR AFTER NOTICE. The owner of a junk, hobby vehicle or junk vehicle and the owner of the property upon which it is located shall, within 20 days after notice has been given as provided in Section 51.06 hereof:

1. Repair any and all conditions as defined under Section 51.01 of this chapter which cause such vehicle to be a nuisance as defined herein; or

2. Remove the junk, hobby vehicle or junk vehicle or cause to have the junk, hobby vehicle or junk vehicle removed to an authorized junk/salvage yard or to any other location provided the same complies with all applicable provisions of this Code of Ordinances.

51.09 ABATEMENT BY CITY. If the owner of the junk, hobby vehicle or junk vehicle or owner of the property upon which the junk, hobby vehicle or junk vehicle is located shall fail to abate the nuisance as prescribed in Section 51.08 of this chapter, the City of Fairfax by and through the Linn County Sheriff or his/her designated representative may abate such nuisance by causing the junk, hobby vehicle or junk vehicle to be removed and impounded and sold or disposed of as provided for abandoned vehicles under Section 51.01 of this Code of Ordinances. The Council may also, by resolution, establish reasonable fees for any other costs incurred through the enforcement of this chapter. All costs of such abatement and enforcement shall be charged to the owner of the junk, hobby vehicle or junk vehicle, if known. If, in the event that it is not possible to determine the owner of the vehicle, all costs of such abatement and enforcement shall be charged to the owner of the property where such vehicle was located. All such costs may be assessed against the property being deemed as benefiting from the removal and collected as a special assessment in the same manner as property taxes.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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55.23 Tethering of Animals
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55.27 Seizure, Impoundment and Disposition of Dangerous and Vicious Animals
55.28 Abatement Procedures Pertaining to Vicious Dogs and Dangerous Animals
55.29 Hold Harmless

55.01 DEFINITION OF TERMS. As used in this chapter, unless the context indicates otherwise.

1. “Animal” means a nonhuman vertebrate. (Code of Iowa, Sec. 717B.1)

2. “At heel” means, with reference to dogs, except female dogs in heat, within three (3) feet of a person subject to that person’s strict obedient command and control.

3. “At large” means off the owner’s real property, including, by way of illustration but not limited to, on the public streets, alleys, public grounds, school grounds, parks and real property of others. An animal is not at large if:
   A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and is under the control of the person, or
   B. The animal is within a motor vehicle, or
   C. The animal is housed in a veterinary hospital, licensed kennel, pet shop, animal shelter or police vehicle, or
   D. The animal is accompanied by and at heel beside the owner or a competent, responsible person.

4. “Confined” means securely confined in a dwelling house or an enclosed locked building, enclosed fence, pen or other structure having a height of at least six (6) feet with locked gates and with secure sides and at all points embedded into the ground, or, if such enclosed fence is less than six (6) feet in height, having a secure and complete top securely fastened to the sides.
5. A “dangerous animal” is:
A. 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;
B. Any animal declared to be dangerous by the County Board of Health or Council or its designee; and
C. The following animals, which are deemed to be dangerous animals per se:
   (1) Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
   (2) Wolves, coyotes and foxes;
   (3) Badgers, wolverines, weasels, skunk and mink;
   (4) Raccoons;
   (5) Bears;
   (6) Monkeys and chimpanzees;
   (7) Bats;
   (8) Alligators and crocodiles;
   (9) Scorpions;
   (10) Snakes that are venomous, or constrictors;
   (11) Gila monsters;
   (12) Any dog or other animal which has a known propensity, tendency or disposition to attack human beings or domestic animals without provocation, as to cause injury to or to otherwise endanger their safety; or any dog or other animal that manifests a disposition to snap or bite. This includes the following:
      (a) Any dog or other animal which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper of the dog or other animal.
      (b) Any dog or other animal which, when unprovoked, inflicts bodily injury upon a person.
      (c) Any dog or other animal which, when unprovoked, on two separate occasions, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.
6. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

(Code of Iowa, Sec. 717.1)

7. “Owner” means any person owning, keeping, sheltering or harboring an animal.

8. “Veterinary hospital” means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injuries of animals.

9. “Vicious animal” means any animal, except for a dangerous animal, that:
   A. Has bitten or clawed a person or persons in an aggressive manner while running at large and the attack was unprovoked,
   B. Has bitten or clawed a person or persons in an aggressive manner on two (2) separate occasions within a twelve (12) month period;
   C. Has bitten or clawed once causing injuries above the shoulders of a person;
   D. Could not be controlled or restrained by the owner at the time of an attack; or
   E. Has attacked any domestic animal or fowl on three (3) separate occasions within a twelve (12) month period.

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

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

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

(Code of Iowa, Sec. 717.2)

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

(Code of Iowa, Sec. 717B.8)
55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City’s zoning regulations.

55.06 BEES. It is unlawful for any person to keep or harbor bees unless the same are specifically authorized under the Fairfax Zoning Ordinances as agricultural or commercial use.

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

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

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

55.10 CONFINEMENT OF FEMALE DOGS IN HEAT. The owner of any female dog in heat shall confine said animal inside the house or buildings on the owner’s premises during the heat period. The owner may remove a dog in heat from his/her premises for purposes of breeding and/or exercise providing the animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and is under the control of the owner. No female dog in heat shall be allowed at heel.

55.11 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is a violation of this chapter for any person to own or have a dog or cat in the person’s possession, four (4) months of age or over, which has not been vaccinated against rabies. Dogs kept in State or Federally licensed kennels and not allowed to run at large shall not be subject to these vaccination requirements.

55.12 CONTROL OF DISEASE OUTBREAK. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the Mayor, if that person deems it necessary, shall issue a proclamation ordering every owner of an animal, dog or cat to confine the same securely on the owner’s premises at all times, for such period of time as deemed necessary.

55.13 OWNERS’, PHYSICIANS’ AND VETERINARIANS’ DUTIES. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)
55.14 **CONFINEMENT.** If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.17 **IMPOUNDING COSTS.** Impounding costs are established and charged by the Cedar Valley Humane Society.

(Code of Iowa, Sec. 351.37)

55.18 **TAG AND COLLAR.** Every owner shall be required to provide each dog and/or cat with a collar to which the rabies tag and identification tag must be securely fixed. Such rabies tag and identification tag and collar shall be constantly worn by every animal and it shall be the responsibility of the owner of such animal to assure the constant wearing of such collar and tag. In the event the animal’s tags are lost or destroyed, the owner is required to replace them.

55.19 **DOGS IN PARKS.**

1. No dog shall be allowed in or within fifty (50) feet of any pavilion, playground or ball field in a City Park, except properly trained dogs for the blind or deaf are permitted in and within fifty (50) feet of pavilions.

2. No dog shall be allowed in any other area of a City Park unless it is attached to a leash not more than six (6) feet in length and having sufficient strength to restrain the dog when the leash is held by a person capable of restraining and controlling the dog.
55.20  EXERCISE AREAS. The Mayor, with the approval of the City Council, may designate areas, if such are available, where owners may take their dogs for exercise and obedience training, provided such dogs attending such areas are under the control of competent persons while in such designated areas.

55.21  NUMBER OF ANIMALS. No person shall harbor or maintain such number of animals to create unhealthful or unsanitary conditions for the humans or animals occupying the premises, or create any other conditions constituting a nuisance. If such conditions exist, the Mayor is authorized to make an investigation. After notice to and hearing for the person or persons occupying or maintaining the residence or premises, or the persons harboring or maintaining the animals, the Mayor may order such number of animals be moved from the residence or premises to remedy or correct the unhealthful, unsanitary or other conditions constituting a nuisance. Upon the failure of the person to follow the orders issued by the Mayor, appropriate action may be pursued in the courts to either enforce the order of the Mayor, and/or correct the conditions and/or abate the nuisance.

55.22  UNHEALTHFUL OR UNSANITARY CONDITIONS AND OTHER REGULATIONS.

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.

2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal’s discharge of the feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

3. All feces removed as aforesaid shall be placed in an airtight container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.

4. An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner’s soil in any manner that prevents odor or collection of vermin.

55.23  TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street, alley or private property other than the owner’s.

55.24  RELEASING OR MOLESTING DOGS OR CATS.

1. Any person except the owner of a dog or cat or his or her authorized agent who willfully opens any door or gate on any private premises for the purpose of enticing or enabling any dog or cat to leave such private premises and be at large, as defined in this chapter, is in violation of this Code of Ordinances.
2. Any person who willfully molestes, teases, provokes or mistreats a dog or cat while confined on its owner’s premises is in violation of the Code of Ordinances.

55.25 Keeping of Dangerous Animals Prohibited. No person shall keep, shelter or harbor a dangerous animal for any reason 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.

3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

4. Those Pit Bulls owned and harbored within the corporate City limits before June 11, 2002, provided that such Pit Bulls are confined and kenneled at all times.

55.26 Keeping of Vicious Animals Prohibited. No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.

55.27 Seizure, Impoundment and Disposition of Dangerous and Vicious Animals.

1. In the event that a dangerous animal or 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 discretion of the Mayor, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the
dangerous animal or vicious animal and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personal or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

55.28 ABATEMENT PROCEDURES PERTAINING TO VICIOUS DOGS AND DANGEROUS ANIMALS. In the event that the City has probable cause to believe that an animal is vicious or dangerous in violation of this chapter, the City shall be empowered to convene an investigation for the purpose of determining whether or not the animal in question should be declared vicious or dangerous in violation and constitutes a hazard. The City shall notify the owner or keeper of the alleged vicious or dangerous animal that said owner or keeper may present evidence why animal shall not be declared vicious or dangerous within ten (10) days after the service of notice upon the owner or keeper of the alleged vicious or dangerous animal. After the investigation, the owner or keeper of the dog or dangerous animal shall be notified in writing of the determination. If a determination is made that the animal is
vicious or dangerous, the owner or keeper shall comply with the provisions of this chapter in accordance with a time schedule established by the City, but in no case more than thirty (30) days subsequent to the date of determination. If the owner or keeper of the vicious or dangerous animal contests the determination, the determination may be appealed to the Council in the same manner as appealing orders to remove dangerous or vicious animals set forth in Section 55.27(3) – (5). In the event that the City has probable cause to believe that the animal in question is vicious or dangerous, and poses a threat of serious harm to human beings or domestic animals, the City may seize and impound the animal pending the aforesaid investigation.

55.29 HOLD HARMLESS. Absent a showing of reckless conduct, no person granted authority to enforce the provisions of this chapter shall be liable for damage to or destruction of any animal occurring during the course of enforcement of this chapter.

(Ch. 55 – Ord. 09 - Oct. 17 Supp.)
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CHAPTER 56

MOWING OF PROPERTIES

56.01 PURPOSE. The purpose of this chapter is to designate responsibility for the removal of weeds and cutting of grasses within the City limits of the City of Fairfax, Iowa, in order to provide for the safety and preserve the health and welfare of the citizens located therein.

56.02 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

1. “Conservation area” means an area that is planted with ground cover plants of a size and texture compatible with the environment and maintained accordingly.
2. “Developed lot or land” means an improved residential or commercial lot.
3. “Grass” means any plant of the family Gramineae, having jointed stems, sheathing leaves, and seedlike grains.
4. “Ground cover” means plants with the growth and root capacity to cover and stabilize an area of soil and to prevent erosion.
5. “Natural area” means an area allowed to retain native plant material in a natural prairie state.
6. “Noxious weeds” means primary and secondary classes of weeds as defined by the Code of Iowa, and all additions to this list as so declared by the State Secretary of Agriculture.
7. “Parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and curb line; on unpaved streets, the parking is that part of the street, avenue, or highway lying between the lot lines and that portion of the street usually traveled by vehicular traffic.
8. “Right-of-way” means the entire width of a platted street or alley in use or undeveloped.
9. “Soil erosion control” means a method of planting and cultivation, or lack of same, designed to retain soil and to prevent soil movement caused by natural or manmade causes.

10. “Undeveloped lot or land” means an unimproved lot or area.

11. “Weeds” means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of twelve (12) inches or more, except as otherwise provided in this chapter.

56.03 AUTHORITY FOR ENFORCEMENT. City of Fairfax staff members or other persons as may be designated by the City Council are responsible for the enforcement of this chapter and shall have all the necessary authority to carry out the enforcement of this chapter.

56.04 INTERFERENCE WITH ENFORCEMENT. No persons shall interfere with the staff member while engaged in the enforcement of this chapter.

56.05 PROVISIONS. Except as provided elsewhere in this chapter, the following provisions shall apply:

1. Each owner and each person in the possession or control of any land within the City limits of the City of Fairfax, Iowa, shall cut or otherwise destroy all noxious weeds thereon and shall keep said lands free of such growth.

2. Each owner and each person in possession or control of any property within the City limits of the City of Fairfax, Iowa, shall be responsible to:
   A. Keep said property, along with parking adjacent thereto, alleys, public ways or areas up to the centerline of said ways free of any noxious weeds.
   B. Keep grasses and weeds on said property mowed so that grass and weeds are less than twelve (12) inches in height.
   C. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than eighteen (18) inches in height.
   D. Farm crops, pasture, vineyards, orchards, garden plants, and ornamental plants in established planting beds may exceed the requirements of this chapter. However, weeds and brush in
such areas shall be cut so that such weeds or brush are less than two (2) feet in height.

E. Said mowing requirements shall be completed by the fifteenth (15th) day of the month in May, June, July, August, September, and October of each year.

3. Each owner and each person in the possession or control of any property shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alley, or public ways adjoining said property unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

4. Where waterway or watercourses are found upon any developed or undeveloped property, the owner or person in possession or control shall keep the flat or level part of the bank of said waterway free of any weeds and grasses more than eighteen (18) inches in height. Should such waterways or watercourses be found with the right-of-way of a street or alley, the adjacent property owner or person in possession or control shall be responsible to keep the flat or accessible portion of creek bank free of any weeds or grasses more than 18 inches in height.

5. No owner or person in possession or control of any developed or undeveloped property shall allow plant growth or the accumulation of plant materials on such lot to remain in such a state so as to constitute a fire hazard.

56.06 NATURAL AREAS.

1. Designation. The owner or person in possession or control of any property within the City limits of the City of Fairfax, Iowa, may apply to have such land or portion thereof designated as a natural or conservation area. Prior to designating such area, the Fairfax City Council shall consider the following factors: grade or incline of said tract, the difficulty to control or maintain said tract, whether said tract is being maintained as either a soil erosion control area or a conservation area.

2. Natural or Conservation Area. Natural or conservation areas as designated by the Fairfax City Council, need not be mowed and shall be left in their natural state, except that noxious weeds shall be removed or controlled.

3. Public Ways. Sidewalk or other public ways that lie adjacent to or extend through a natural or conservation area must be open and free from any obstructions to pedestrians or vehicular traffic.
56.07 EXEMPT PROPERTY.

1. Property within the City of Fairfax and owned by the State of Iowa is exempt from the provisions of this chapter.

2. Property within the City of Fairfax which is owned by a railroad company and currently used for the operation of the railroad system is exempt from the provisions of this chapter.

56.08 PENALTY. Any property which is found to be in violation of this chapter may be mowed by the City or their agent. All associated costs for such mowing, plus a surcharge of $100.00, will be charged to the property owner. The minimum charge will be for one hour of work at a rate of $75.00 per hour plus the surcharge of $100.00. Any property owners who fail to mow their properties, thus allowing the same to be mowed by the City or their agents, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

56.09 METHOD OF SERVICE AND BILLING.

1. Annual publication of this chapter will serve as notice to property owners.

2. If the City of Fairfax finds a property is in violation of this chapter, one letter and copy of this chapter will be sent by regular mail to the property owner. This letter will require immediate and continued compliance with all regulations of this chapter.

3. Any billings for mowing done by the City or their agents are to be sent by regular mail and are payable within 30 days of billing date.

(Ch. 56 – Ord. 110 - Mar. 11 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including the following designated streets:

   Vanderbilt Street from Church Street to Losey Street

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

3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.

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

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

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

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

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

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

60.04 POWER TO DIRECT TRAFFIC. A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

(Code of Iowa, Sec. 102.4 & 321.236[2])

60.05 TRAFFIC ACCIDENTS: REPORTS. The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

(Code of Iowa, Sec. 321.273)

60.06 PEACE OFFICER’S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver’s license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a
vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

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

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

4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.
CHAPTER 61

TRAFFIC CONTROL DEVICES

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

(Code of Iowa, Sec. 321.255)

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


61.03 TRAFFIC LANES. The peace officer is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.


61.04 STANDARDS. Traffic control devices shall comply with standards established by The Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the Code of Iowa.

(Code of Iowa, Sec. 321.256)
62.01 VIOLATION OF REGULATIONS. Any person who willfully fails or refuses to comply with any lawful order of a peace officer or direction of a fire department officer during a fire, or who fails to abide by the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this section. These sections of the Code of Iowa are adopted by reference and are as follows:

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability.
3. Section 321.32 – Registration card, carried and exhibited.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
13. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
15. Section 321.194 – Special minor’s licenses.
17. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
18. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
19. Section 321.219 – Permitting unauthorized minor to drive.
22. Section 321.222 – Renting motor vehicle to another.
23. Section 321.223 – License inspected.
26. Section 321.234A – All-terrain vehicles.
27. Section 321.235A – Electric personal assistive mobility devices.
28. Section 321.247 – Golf cart operation on City streets.
29. Section 321.257 – Official traffic control signal.
30. Section 321.259 – Unauthorized signs, signals or markings.
31. Section 321.260 – Interference with devices, signs or signals – unlawful possession
32. Section 321.262 – Damage to vehicle.
33. Section 321.263 – Information and aid.
34. Section 321.264 – Striking unattended vehicle.
35. Section 321.265 – Striking fixtures upon a highway.
36. Section 321.275 – Operation of motorcycles and motorized bicycles.
37. Section 321.278 – Drag racing prohibited.
38. Section 321.288 – Control of vehicle; reduced speed.
39. Section 321.295 – Limitation on bridge or elevated structures.
40. Section 321.297 – Driving on right-hand side of roadways; exceptions.
41. Section 321.298 – Meeting and turning to right.
42. Section 321.299 – Overtaking a vehicle.
43. Section 321.302 – Overtaking on the right.
44. Section 321.303 – Limitations on overtaking on the left.
45. Section 321.304 – Prohibited passing.
46. Section 321.306 – Roadways laned for traffic.
47. Section 321.307 – Following too closely.
48. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
49. Section 321.309 – Towing; convoys; drawbars.
50. Section 321.310 – Towing four-wheel trailers.
51. Section 321.312 – Turning on curve or crest of grade.
52. Section 321.313 – Starting parked vehicle.
53. Section 321.314 – When signal required.
54. Section 321.315 – Signal continuous.
55. Section 321.316 – Stopping.
56. Section 321.317 – Signals by hand and arm or signal device.
57. Section 321.319 – Entering intersections from different highways.
58. Section 321.320 – Left turns; yielding.
60. Section 321.322 – Vehicles entering stop or yield intersection.
61. Section 321.323 – Moving vehicle backward on highway.
62. Section 321.323A – Approaching certain stationary vehicles.
63. Section 321.324 – Operation on approach of emergency vehicles.
64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
65. Section 321.330 – Use of crosswalks.
66. Section 321.332 – White canes restricted to blind persons.
68. Section 321.340 – Driving through safety zone.
69. Section 321.341 – Obedience to signal of train.
70. Section 321.342 – Stop at certain railroad crossings; posting warning.
71. Section 321.343 – Certain vehicles must stop.
72. Section 321.344 – Heavy equipment at crossing.
73. Section 321.344B – Immediate safety threat – penalty.
74. Section 321.354 – Stopping on traveled way.
75. Section 321.359 – Moving other vehicle.
76. Section 321.362 – Unattended motor vehicle.
77. Section 321.363 – Obstruction to driver’s view.
78. Section 321.364 – Preventing contamination of food by hazardous material.
79. Section 321.365 – Coasting prohibited.
80. Section 321.367 – Following fire apparatus.
81. Section 321.368 – Crossing fire hose.
82. Section 321.369 – Putting debris on highway.
83. Section 321.370 – Removing injurious material.
84. Section 321.371 – Clearing up wrecks.
85. Section 321.372 – School buses.
86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.
89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
125. Section 321.438 – Windshields and windows.
127. Section 321.440 – Restrictions as to tire equipment.
128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.
131. Section 321.445 – Safety belts and safety harnesses – use required.
132. Section 321.446 – Child restraint devices.
133. Section 321.449 – Motor carrier safety regulations.
134. Section 321.450 – Hazardous materials transportation.
136. Section 321.455 – Projecting loads on passenger vehicles.
137. Section 321.456 – Height of vehicles; permits.
138. Section 321.457 – Maximum length.
139. Section 321.458 – Loading beyond front.
140. Section 321.460 – Spilling loads on highways.
141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
145. Section 321.466 – Increased loading capacity – reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

(Code of Iowa, Sec. 321.324A)

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

62.08 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

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

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

*(Code of Iowa, Sec. 321.277)*

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

*(Code of Iowa, Sec. 321.277A)*

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.12 **MILLING.** It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

62.13 **ENGINE BRAKES AND COMPRESSION BRAKES: PROHIBITED NOISES.** It is unlawful for any driver of any vehicle (except official emergency vehicles) to use or operate, or cause to be used or operated, within the City limits, any engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. A violation of this section will be considered a non-moving violation and subject the driver to a fine not to exceed $100.00.

*(Ord. 13 – Dec. 18 Supp.)*

[The next page is 341]
CHAPTER 63
SPEED REGULATIONS

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on Front Street.
2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated street or parts thereof.
A. Stallman Drive from Williams Boulevard (Highway 151) to West Cemetery Road.
B. East Cemetery Road from Williams Boulevard (Highway 151) to the east side of Driftwood Lane.
C. West Cemetery Road from Williams Boulevard (Highway 151) to Longview Drive.
D. 1108 Williams Boulevard north to Highway 151.

(Ord. 50 – Oct. 17 Supp.)

3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. West Cemetery Road from Longview to the west city limits.
B. East Cemetery Road from the east side of Driftwood Lane to the east corporate limits.

(Ord. 50 – Oct. 17 Supp.)

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

A. Iowa Highway 151, 5,670 feet ±, from Station 733 ±, to 1,800 feet ±, south of Church Street.

5. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Iowa Highway 151, 1,050 feet ±, from Station 733 ±, to Station 743 + 50, ±.

(Ord. 17 – Oct. 17 Supp.)

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

(Code of Iowa, Sec. 321.294)
CHAPTER 64
TURNING REGULATIONS

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn at any place within the City.

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

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.
CHAPTER 65

STOP OR YIELD REQUIRED

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

(Code of Iowa, Sec. 321.345)

1. Vanderbilt Street from Losey Street to Church Street.
2. Losey Street from Prairie Avenue to Vanderbilt Street.
3. Fairfax Road from Church Street to East Southview Road.
4. Highland Avenue from Williams Boulevard to 2nd Street.

(Ord. 59 – Oct. 06 Supp.)

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

(Code of Iowa, Sec. 321.345)

1. Vehicles traveling west on East Southview Road shall stop at Highway 151.
2. Vehicles traveling on East Southview Road shall stop at Williams Boulevard.
3. Vehicles traveling north on Williams Boulevard shall stop at Highway 151.
4. Vehicles traveling east on East Southview Road shall stop at Fairfax Road.
5. Vehicles traveling east on Linn Street shall stop at Fairfax Road.
6. Vehicles traveling west on Church Street shall stop at Williams Boulevard.
7. Vehicles traveling on Church Street shall stop at Vanderbilt Street.
8. Vehicles traveling on Vanderbilt Street shall stop at Church Street.
9. Vehicles traveling on Main Street shall stop at Vanderbilt Street.
10. Vehicles traveling on Main Street shall stop at Reynolds Street.
11. Vehicles traveling on Railroad Street shall stop at Vanderbilt Street.
12. Vehicles traveling north on Losey Street shall stop at Prairie Avenue.
13. Vehicles traveling west on Prairie Avenue shall stop at Williams Boulevard.
14. Vehicles traveling on Prairie Avenue shall stop at Vanderbilt Street.
15. Vehicles traveling on Park Street shall stop at Church Street.
16. Vehicles traveling on Park Street shall stop at Main Street.
17. Vehicles traveling south on Reynolds Street shall stop at Church Street.
18. Vehicles traveling north on Nickolet Street shall stop at Prairie Avenue.
19. Vehicles traveling south on Nickolet Street shall stop at Losey Street.
20. Vehicles traveling south on Vanderbilt Street shall stop at Losey Street.
21. Vehicles traveling west on East Cemetery Road shall stop at Williams Boulevard.
22. Vehicles traveling east on West Cemetery Road shall stop at Williams Boulevard.
23. Vehicles traveling south on Longview Drive shall stop at West Cemetery Road.
24. Vehicles traveling north on Stallman Drive shall stop at West Cemetery Road.
25. Vehicles traveling south on Stallman Drive shall stop at Williams Road.
26. Vehicles traveling north on 80th Street shall stop at Williams Boulevard.
27. Vehicles traveling south on 80th Street shall stop at East Cemetery Road.
28. Vehicles traveling north on Skyview Avenue shall stop at 2nd Street.
29. Vehicles traveling on Skyview Avenue shall stop at 1st Street.
30. Vehicles traveling north on Highland Avenue shall stop at Williams Boulevard.
31. Vehicles traveling on Highland Avenue shall stop at 2nd Street.
32. Vehicles traveling on Highland Avenue shall stop at 1st Street.
33. Vehicles traveling south on Highland Avenue shall stop at East Cemetery Road.
34. Vehicles traveling north on Highland Court shall stop at Highland Avenue.
35. Vehicles traveling east on Commercial Court shall stop at Highland Avenue.
36. Vehicles traveling east on Hillview Drive shall stop at Highland Avenue.
37. Vehicles traveling on 2nd Street shall stop at Highland Avenue.
38. Vehicles traveling on 1st Street shall stop at Highland Avenue.
39. Vehicles traveling on 1st Street shall stop at Skyview Avenue.
40. Vehicles traveling on West Prairie Drive shall stop at Prairie View Circle.
41. Vehicles traveling north on Prairie View Drive shall stop at Williams Boulevard.
42. Vehicles traveling west on Prairie View Drive shall stop at Prairie View Circle.
43. Vehicles traveling west on Sunset Drive shall stop at Prairie View Drive.
44. Vehicles traveling east on Coneflower Drive shall stop at Prairie View Drive.
45. Vehicles traveling east on Prairie View Circle shall stop at Prairie View Drive.
46. Vehicles traveling east on Wildflower Drive shall stop at Sunset Drive.
47. Vehicles traveling west on Wildflower Drive shall stop at Prairie View Circle.
48. Vehicles traveling north on Wildflower Circle shall stop at Wildflower Drive.
49. Vehicles traveling west on 80th Street Court shall stop at 80th Street SW.
50. Vehicles traveling west on Creek Side Drive shall stop at 80th Street SW.
51. Vehicles traveling south on Ridge View Drive shall stop at Creek Side Drive.
52. Vehicles traveling south on Driftwood Lane shall stop at East Cemetery Road.
53. Vehicles traveling east on Creek Side Drive shall stop at Driftwood Lane.
54. Vehicles traveling west on 2nd Street shall stop at Ridge View Drive.
55. Vehicles traveling west on Ridge Drive shall stop at Highland Avenue.
56. Vehicles traveling north on Sunflower Drive shall stop at Ridge Drive.
57. Vehicles traveling southwest on Blazingstar Court shall stop at Ridge Drive.
58. Vehicles traveling southwest on West Prairie Drive shall stop at Ridge Drive.
59. Vehicles traveling north on Ridge Drive shall stop at West Prairie Drive.
60. Vehicles traveling south on Ridge Drive shall stop at West Prairie Drive.
61. Vehicles traveling northeast on 2nd Street shall stop at Ridge Drive.
62. Vehicles traveling north on Wild Rose Drive shall stop at West Prairie Drive.
63. Vehicles traveling southwest on Wild Rose Drive shall stop at Ridge Drive.
64. Vehicles traveling northeast on Goldenrod Drive shall stop at Ridge Drive.
65. Vehicles traveling south on Ridge Drive shall stop at Goldenrod Drive.
66. Vehicles traveling north on Ridge Drive shall stop at Goldenrod Drive.
67. Vehicles traveling northwest on Bluestar Drive shall stop at 2nd Street.
68. Vehicles traveling southeast on Aster Court shall stop at Goldenrod Drive.
69. Vehicles traveling southwest on Goldenrod Drive shall stop at Sunflower Drive.
70. Vehicles traveling west on Larkspur Drive shall stop at Sunflower Drive.
71. Vehicles traveling east on Larkspur Drive shall stop at Ridge Drive.
72. Vehicles traveling south on Sunflower Drive shall stop at East Cemetery Road.
73. Vehicles traveling south on Ridge Drive shall stop at East Cemetery Road.
74. Vehicles traveling on 2nd Street shall stop at Sunflower Drive.
75. Vehicles traveling on Sunflower Drive shall stop at 2nd Street.
76. Vehicles traveling on 2nd Street shall stop at Driftwood Lane.
77. Vehicles traveling on Driftwood Lane shall stop at 2nd Street.
78. Vehicles traveling north on Bluff Drive shall stop at 2nd Street.
79. Vehicles traveling north on Horizon Avenue shall stop at 2nd Street.
80. Vehicles traveling west on 2nd Street shall stop at Ridge View Drive.
81. Vehicles traveling on Park Street shall stop at Linn Street.
82. Vehicles traveling north on Nickolet Street shall stop at Front Street.
83. Vehicles traveling north on Vanderbilt Street shall stop at Front Street.
84. Vehicles traveling north on Park Street shall stop at Front Street.
85. Vehicles traveling east on Front Street shall stop at Park Street.
86. Vehicles traveling west on Front Street shall stop at Park Street.

(Ord. 129 – Dec. 12 Supp.)

87. Vehicles traveling east on East Cemetery Road shall stop at 80th Street.
88. Vehicles traveling west on East Cemetery Road shall stop at 80th Street.
89. Vehicles traveling south on the City of Fairfax Trail shall stop at Front Street.

(Ord. 18 – Oct. 17 Supp.)

90. Vehicles traveling south on Ridge View Drive at the east most intersection with Second Street shall stop at Second Street.
91. Vehicles traveling west on Second Street shall stop at Ridge View Drive.
92. Vehicles coming off Ridge View Court shall stop at Ridge View Drive.
93. Vehicles traveling south on Glen Oaks Drive shall stop at Heartland Street.
94. Vehicles traveling south on Foxtail Drive shall stop at Heartland Street.
95. Vehicles traveling south on Eaglevie Drive shall stop at Heartland Street.
96. Vehicles traveling north on Eaglevie Drive shall stop at Heartland Street.
97. Vehicles traveling east on Heartland Street shall stop at Eaglevie Drive.
98. Vehicles traveling west on Heartland Street shall stop at Eaglevie Drive.
99. Vehicles traveling south on Deerfield Drive shall stop at Heartland Street.
100. Vehicles traveling south on Cardinal Drive shall stop at Heartland Street.
101. Vehicles traveling south on Bridgewood Drive shall stop at Heartland Street.
102. Vehicles traveling north on Bridgewood Drive shall stop at Heartland Street.
103. Vehicles traveling east on Heartland Street shall stop at Bridgewood Drive.
104. Vehicles traveling west on Heartland Street shall stop at Bridgewood Drive.
105. Vehicles traveling south on Applewood Drive shall stop at Heartland Street.
106. Vehicles traveling west on Heartland Court shall stop at Applewood Drive.
107. Vehicles traveling north on Applewood Drive shall stop at Beverly Road.
108. Vehicles traveling east on Beverly Road shall stop at 80th Street.

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of Vanderbilt Street and Church Street;
2. Intersection of 2nd Street and Highland Avenue;

(Ord. 57 – Oct. 17 Supp.)
3. Intersection of 1st Street and Skyview Avenue;
4. Intersection of 1st Street and Highland Avenue.
5. Intersection of West Prairie Drive and Prairie View Circle.
6. Intersection of 2nd Street and Driftwood Lane.
7. Intersection of 2nd Street and Sunflower Drive.

(Ord. 59 – Oct. 06 Supp.)

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

(Code of Iowa, Sec. 321.345)
1. Vehicles traveling north on Park Street shall yield at Railroad Street.
2. Vehicles traveling south on Park Street shall yield at Linn Street.
3. Vehicles traveling south on Seipman Drive shall yield at Main Street.
4. Vehicles traveling south on Burger Lane shall yield at Main Street.
5. Vehicles traveling east on Prairie Avenue shall yield at Park Street.
6. Vehicles traveling north on Nickolet Street shall yield at Front Street.
7. Vehicles traveling north on Vanderbilt Street shall yield at Front Street.
8. Vehicles traveling north on Park Street shall yield at Front Street.

(Ord. 63 – Jan. 07 Supp.)

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

(Code of Iowa, Sec. 321.249)

- NONE -

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.07 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.
65.08 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)
CHAPTER 66
LOAD AND WEIGHT RESTRICTIONS

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

1. Railroad Street, between Park Street and Reynolds Street: 10,000 pounds G.V.W.
2. Reynolds Street, between Railroad Street and Church Street: 10,000 pounds G.V.W.
3. West Cemetery Road between Williams Blvd. (Highway 151) and the Fairfax City limits, 10,000 pounds G.V. W.
4. Williams Blvd between Highway 151 and Southview Road, 10,000 pounds G. V. W.

(Ord. 12 – Oct. 17 Supp.)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Mayor may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)
CHAPTER 67

PEDESTRIANS

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.
CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

(Code of Iowa, Sec. 321.236 [4])

- NONE -
69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Park Street, on the east side, from Church Street to the alley north of Church Street.

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

(Code of Iowa, Sec. 321.361)
69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.
   (Code of Iowa, Sec. 321.358 [5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
   (Code of Iowa, Sec. 321.236 [1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
   (Code of Iowa, Sec. 321.236 [1])
4. Sidewalks. On or across a sidewalk.
   (Code of Iowa, Sec. 321.358 [1])
5. Driveway. In front of a public or private driveway.
   (Code of Iowa, Sec. 321.358 [2])
6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.
   (Code of Iowa, Sec. 321.358 [3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
   (Code of Iowa, Sec. 321.358 [4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
   (Code of Iowa, Sec. 321.358 [6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. Dead End Temporary Turn Arounds. On or blocking any temporary turn around in developing areas. All vehicles, trailers, equipment or any other property left unattended in these temporary turn arounds will be ticketed and towed at the owner’s expense.

(Subsection 19 – Ord. 26 – Dec. 19 Supp.)

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

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

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

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

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

B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;
C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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

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

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

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

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

1. Vanderbilt Street, on the west side, from the Fire Station entrance to Linn Street.

2. Linn Street, on the south side, from Vanderbilt Street to Fairfax Road.

3. Park Street, on the west side, from Front Street to Railroad Street and on the east side from Church Street to Linn Street (no parking on either side on Park Street from Railroad Street to Main Street).

4. Losey Street, on either side, from a point 132 feet west of Nickolet Street to Prairie Avenue.

5. Stallman Road, on the west side, from Williams Boulevard to West Cemetery Road.

6. Front Street, on the north side, from Park Street to the dead end.

7. Quarry Drive, on either side.

8. Along the driveway at the Fire Station and City Hall.

9. Along the south side of Prairie Avenue from Highway 151 to Park Street.

10. Railroad Street, on the south side, from Park Street to Reynolds Street.

11. Main Street, on the south side, from 215 Main Street, west to the viaduct.

12. Burger Lane, on the west side, from Main Street north.
13. Railroad Street, on either side, from Burger Lane to Fairfax Road.
14. Highland Avenue, on the west side, from Williams Boulevard through 334 Highland Avenue and then from 2nd Street to East Cemetery Road.

(Ord. 38 – Oct. 17 Supp.)

15. Highland Avenue, on the east side, from 2nd Street to Highland Court.
16. Highland Court, on the west side, from Highland Avenue.
17. Commercial Court, on the north side, from Highland Avenue to Hillview Avenue.
18. Commercial Court, on the south side, from Highland Avenue.
19. Hillview Drive, on the south side, from Highland Avenue to Commercial Court.
20. 2nd Street, on the north side, from Horizon Avenue to Bluff Drive.
21. Horizon Avenue, on the west side from 2nd Street to 1st Street.
22. Skyview Avenue, on the east side, from 2nd Street to East Cemetery Road.
23. Bluff Drive, on the east side, from 2nd Street to 1st Street.
24. 1st Street, on the south side, from Horizon Avenue to Bluff Drive.
25. Coneflower Drive, on the north side, from Prairie View Drive to private property.
26. Coneflower Drive, on the south side, from Prairie View Drive.
27. Prairie View Drive, on either side, from Highway 151 to Prairie View Circle and Sunset Drive intersection.
28. Prairie View Circle from 465 to 361.
29. West Prairie Drive from 433 to 401.
30. Prairie View Drive, on the south side, from 444 to 402.
31. Wildflower Drive, on the south side, from 438 to 402.
32. Wildflower Circle, on either side of the street and along the cul-de-sac.
33. Sunset Drive from 439 to 350.
34. Sunset Drive from 474 to 452.

(Ord. 17 – Apr. 04 Supp.)
35. Church Street, on the north side, from Fairfax Road to Reynolds Street.  
   (Ord. 58 – Aug. 06 Supp.)
36. Front Street, on the south side, from 429 Front Street to Park Street.  
   (Ord. 64 – Jan. 07 Supp.)
37. Linn Street, both sides, from 526 Linn Street to 706 Linn Street.  
   (Ord. 88 – Aug. 09 Supp.)
38. Creek Side Drive, on the north side, from 80th Street to 438 Creek Side Drive.
39. Creek Side Drive, on the south side, from 455 Creek Side Drive to Driftwood Lane.
40. Driftwood Lane, on the west side, from Creek Side Drive to 184 Driftwood Lane.
41. Driftwood Lane, on the east side, from 2nd Street to 165 Driftwood Lane.
42. Driftwood Lane, on the south side, from 115 Driftwood Lane to East Cemetery Road.
43. Ridge Drive, on the south side, from Commercial Court to Sunflower Drive.
44. Sunflower Drive, on the west side, from Ridge Drive to 207 Sunflower Drive.
45. Sunflower Drive, on the east side, from 204 Sunflower to East Cemetery Road.
46. Larkspur Drive, on the north side, from Sunflower Drive to Ridge Drive.
47. Ridge Drive, on the west side, from Larkspur Drive to 299 Ridge Drive.
48. Ridge Drive, on the east side, from 304 Ridge Drive to 334 Ridge Drive.
49. Blazingstar Court, on the north side, from Ridge Drive to 323 Blazingstar Court.
50. West Prairie Drive, on the north side, from 388 West Prairie Drive to 390 West Prairie Drive.
51. West Prairie Drive, on the south side, from 389 West Prairie Drive to Prairie View Circle.
52. Wild Rose Drive, on the east side, from West Prairie Drive to Ridge Drive.
53. Goldenrod Drive, on the west side, from Sunflower Drive to 922 Goldenrod Drive.
54. Goldenrod Drive, on the west side, from Bluestar Drive to Ridge Drive.
55. Bluestar Drive, on the north side, from Goldenrod Drive to 2nd Street.
56. 2nd Street, on the south side, from 907 2nd Street to 921 2nd Street.
57. Aster Court, on the north side, from 907 Aster Court to 910 Aster Court.

(Subsections 38-57 Added by Ord. 92 – Nov. 09 Supp.)
58. Railroad Street, on the south side, from Vanderbilt Street east 181 feet.
59. East Cemetery Road, on the north side, from Williams Blvd. east to the city limits.

(Ord. 16 – Oct. 17 Supp.)
60. Ridge View Drive, on both sides, from 210 Ridge View Drive through 484 Ridge View Drive, which is at the most east intersection of Ridge View Drive and Second Street.
61. Entire length, of Ridge View Court.
62. Entire length, on both sides of Heartland Court.

(Ord. 58 – Oct. 17 Supp.)
63. Heartland Street, on the south side, from 1385 Heartland Street through the detention basin outlot adjacent to 1385 Heartland Street.
64. Heartland Street, on the north side, the entire length of 1400 Heartland Street.

(Subsection 63 and 64 – Ord. 3 – Dec. 18 Supp.)
65. West Cemetery Road, on the north side, from 280 West Cemetery Road through 506 West Cemetery Road.
66. West Cemetery Road, on the south side, from 299 West Cemetery Road through 613 West Cemetery Road.

(Subsections 65 and 66 – Ord. 10 – Dec. 18 Supp.)
67. Applewood Drive, on the west side, from Beverly Road to Heartland Street.

(Ord. 28 – Dec. 19 Supp.)

69.09 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

(Code of Iowa, 321.236[1])
69.10 MOTOR VEHICLE PARKING AND STORAGE. Motor vehicle parking and storage is not permitted in any yard in any zoning districts, except as provided in this section.

1. Sidewalks. No parked motor vehicle shall obstruct a public sidewalk. If no public sidewalk exists, then no motor vehicle shall be parked closer than five (5) feet to the street surface.

2. Driveways. A motor vehicle may be parked upon a driveway.

3. Recreational Vehicle - Front Yard Parking. No more than one recreational vehicle may be parked within a front yard and only if in operable condition and if parked upon a driveway.

4. Side and Rear Yard Parking. No more than two motor vehicles may be parked or stored in any side yard or rear yard, and such motor vehicle(s) must be parked or stored on a driveway, carport, hard surface pad or enclosed structure.

5. Trucks, Trailers, Equipment and Materials. No trucks with a net legal carrying capacity exceeding one and one-half tons; no truck trailers; no tractors weighing more than one thousand pounds; no farming equipment or machinery and no construction, repair or maintenance equipment, vehicles, machinery or materials shall be parked or stored unless within an enclosed lawful structure, except if such vehicles, equipment, machinery and materials are in temporary usage to actively accomplish permitted temporary activities on the premises such as construction, repair, moving, and other similar activities. In such cases they shall, upon completion of said activity, be removed or placed in an enclosed structure thereon. Exceptions by the Council. This section applies to residential districts only.

6. Driveway. For purposes of this section, a driveway shall be considered to be that designated area to provide access from the street to a parking area, an attached or basement garage, carport or detached garage, and shall be surfaced, free of grass and weeds and maintained with asphaltic concrete, brick, asphaltic macadam, crushed rock or similar method approved by the City Building Department.

7. Hard Surface Pads. For purposes of this section, a hard surface pad shall be weed and grass free and surfaced and maintained with asphaltic concrete, brick, asphaltic macadam, crushed rock or similar method approved by the City Building Department.

8. Motor Vehicles. For purposes of this section, motor vehicles shall include automobiles, motorcycles, vans, pickup trucks, similar vehicles and recreational vehicles.
9. Recreational Vehicles. For purposes of this section, recreational vehicles shall include bus campers, camper trailers, pickup campers, travel trailers, motor homes, snowmobiles, boats, trailers and similar vehicles. No such recreational vehicle shall be used for living, sleeping or housekeeping purposes while parked or stored as permitted by this section.

(Section 69.10 – Ord. 16 – Dec. 19 Supp.)

69.11 RESERVED PARKING SPACES. The following on-street parking area is reserved for the listed purpose during the listed days and times:

1. For Fairfax Public Library patrons during library hours, the parking area in front of the Fairfax Public Library. This parking area is on the west side of the street at 313 Vanderbilt Street.

(Section 69.11 – Ord. 14 – Dec. 18 Supp.)

69.12 TEMPORARY NO PARKING ZONES. No person shall stop, stand, or park a vehicle in any area designated by the City as a “Temporary No Parking Zone” during any of the following times or periods.

1. Festivals. When there are City approved festivals or celebrations within the City.

2. Other Situations. When an emergency situation, construction condition, or safety necessity requires the designation of such an area.

The designated area shall be marked with orange cones and “No Parking” signs for the designated period which shall not exceed 72 hours, unless a longer time period is approved by the City Council.

(Section 69.12 – Ord. 25 – Dec. 19 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.
   
   (Code of Iowa, Sec. 805.6 & 321.485)

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

   (Code of Iowa, Sec. 805. & 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of two dollars ($2.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

   (Code of Iowa, Sec. 321.236[1a] & 321L.4[2])

   (Ord. 93 – Nov. 09 Supp.)

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.
70.05 PRESCRIPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPROSSING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
   
   (Code of Iowa, Sec. 321.236 [1])

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Forty-eight Hour Period. When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

   (Code of Iowa, Sec. 321.236 [1])
CHAPTER 75

BICYCLE REGULATIONS

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

(Code of Iowa, Sec. 321.236 [10])
75.06 **SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75.12 **PARKING.** No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the
bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

75.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person’s bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.
CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

1. “Abandoned vehicle” means any of the following:

   A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

   B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper (any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles) to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority’s initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

(Ord. 98 – Nov. 09 Supp.)

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties’ last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If
the abandoned vehicle was taken into custody by a private entity without a police authority’s initiative, the notice shall state that the private entity may claim a garage keeper’s lien as described in Section 321.90 of the Code of Iowa, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])
(Ord. 98 – Nov. 09 Supp.)

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

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

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle
whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

(Ch. 80 – Ord. 52 – Jan. 06 Supp.)
CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions. For use in this chapter, the following terms are defined:

1. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails. 
   (Code of Iowa, Sec. 321.1)

2. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 Warning Signals. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.
   (Code of Iowa, Sec. 327G.13)

81.03 Obstructing Streets. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:
   (Code of Iowa, Sec. 327G.32)

   1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
   2. Avoid Striking. When necessary to avoid striking any object or person on the track.
   3. Disabled. When the train is disabled.
   4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
   5. In Motion. When the train is in motion except while engaged in switching operations.
   6. No Traffic. When there is no vehicular traffic waiting to use the crossing.
An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)
CHAPTER 82

GOLF CART REGULATIONS

82.01  PURPOSE. The purpose of this chapter is to permit and regulate the operation of golf carts within the City of Fairfax, as authorized by Sections 321I.10 and 321I.30 of the Code of Iowa.

82.02  DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

1. “Golf cart” means a three or four wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf that is limited in engine displacement of no more than 800 cubic centimeters and with a total dry weight of less than 800 pounds.

2. “City street” means the entire width between property lines of every right-of-way of a platted street or alley that the City of Fairfax owns and maintains. This does not include any street or highway owned and maintained by the State of Iowa, such as Highway 151, also known as Williams Blvd.

3. “Operate” means to ride in or on, other than as a passenger, use or, control the operation of a golf cart in any manner, whether or not the golf cart is moving.

4. “Operator” means a person, who operates or is in actual physical control of a golf cart.

5. “Roadway” means that portion of a street or highway improved, designated, or ordinarily used for vehicular travel.

6. “Street or highway” means the entire width between property lines of every right-of-way of a platted street or alley when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular travel.

82.03  EQUIPMENT REQUIRED. Golf carts operated upon City streets shall be in good mechanical condition, thoroughly safe for transportation of passengers, and be equipped with at least the following:

1. A reflective slow moving vehicle sign.
2. A bicycle safety flag, the top of which shall be a minimum of five (5) feet from ground level.
3. Adequate brakes.
4. Headlights.
5. Taillights.
6. Mirror to provide the driver with adequate vision from behind.

82.04 OPERATION OF GOLF CARTS.
1. Golf carts shall not be operated on U.S. Highway 151 other than to make a direct crossing from one City street to another City street which is directly across the highway.
2. Golf carts may be operated on the City streets of Fairfax after first obtaining a permit as provided herein from the City of Fairfax by persons at least 18 years of age possessing a valid driver’s license and proof of insurance.
3. Golf carts may be operated only between sunrise and sunset.
4. The number of occupants in the motorized golf cart may not exceed the designed occupant load.
5. All traffic laws will be obeyed by the operator.

82.05 UNLAWFUL OPERATION OF GOLF CARTS. No person shall operate a golf cart:
1. In a careless, reckless, or negligent manner as to endanger the person or property of another or cause injury or damage thereto.
2. While under the influence of intoxicating liquor or drugs.
3. In or on any park, trail, playground, sidewalk, or upon any public owned property except with the permission of the governing body thereof.
4. On any privately owned property unless the property owner has granted permission.

82.06 PERMITS AND PERMIT HOLDERS. No person shall operate a golf cart on any public roadway, street, or highway within the City of Fairfax for any purpose unless the operator possesses a City of Fairfax permit to operate a golf cart issued by the City Clerk’s office.
1. An application for a permit shall be made on a form supplied by the City of Fairfax.
2. The application shall contain the date of application, name and address of the applicant, name and address of the golf cart owner, the make, model, year, and serial number of the golf cart.

3. The applicant shall provide a valid driver’s license issued by the Iowa Department of Transportation and be eighteen (18) years of age or older on the date of issuance.

4. The applicant shall provide an owner’s proof of liability insurance which is issued by an insurance carrier authorized to do business in Iowa to or for the benefit of the person named in the policy as insured and insuring the person named as insured and any person using the golf cart with the express or implied permission of the named insured against loss from liability imposed by law for damages arising out of the ownership, maintenance, or use of an insured golf cart in the amounts not less than the minimum limits specified for motor vehicles in Section 321, A.21 of the Iowa Code. The owner is responsible to provide proof of current liability insurance during the entire year, which means when the policy changes or renews, the City of Fairfax shall be provided proof of the new or renewed policy.

5. The annual cost for such a permit is thirty dollars ($30.00) and is payable at the time the permit is granted. This annual cost will not be pro-rated if the permit is purchased during the year.

6. Permits are valid for no more than one year and run from January 1 – December 31.

7. Permit holders will be issued a permit sticker from the City of Fairfax. Each sticker shall have a unique number. Permit holders are responsible to place the issued sticker on the left (driver’s side) in front of the rear wheel well, on a fender or similar component.

8. Permits may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the permit cost.

9. The permit requirement will be waived for golf carts used by officials, workers, and volunteers of the USA Days Celebration.

(Ord. 32 – Oct. 17 Supp.)

82.07 VIOLATIONS AND PENALTY.

1. Any person guilty of violating the provisions herein shall be guilty of a municipal infraction and shall be subject to all of the provisions stated in Chapter 3, Municipal Infractions, of the Code of
Ordinances of the City of Fairfax, Iowa, 2007, and revocation of the City of Fairfax permit for the remainder of the permit year.

2. Any person guilty of violating the provisions two times herein shall be guilty of a municipal infraction and shall be subject to all of the provisions stated in Chapter 3, Municipal Infractions, of the Code of Ordinances of the City of Fairfax, Iowa, 2007, and revocation of the City of Fairfax permit for a period of two years.

3. Any person guilty of violating the provisions three times herein shall be guilty of a municipal infraction and shall be subject to all of the provisions stated in Chapter 3, Municipal Infractions, of the Code of Ordinances of the City of Fairfax, Iowa, 2007, and permanent revocation of the City of Fairfax permit.

4. Persons violating this chapter may also be prosecuted and subject to the penalties set out in Section 3211.36 of the Code of Iowa.

(Chapter 82 – Ord. 118 – Dec. 12 Supp.)

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CHAPTER 90

WATER SERVICE SYSTEM

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

1. “Combined service account” means a customer service account for the provision of two or more utility services.

2. “Customer” means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. “Superintendent” means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. “Water main” means a water supply pipe provided for public or community use.

5. “Water service pipe” means the pipe from the water main to the building served.

6. “Water system” or “water works” means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

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

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

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

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

90.06 CONNECTION FEE. The following fee for connecting to the City’s water system shall be payable at the time a connection permit is granted by the Clerk, unless otherwise agreed to by the City:

1. For a single service to a single residential property that has the public water main fully extended to it or adjacent to it so as the public water main is accessible within the limits of the property, the connection fee shall be a fixed rate per single residential property in an amount as set by resolution of the City Council (for this purpose, a single residential property shall be considered a single house on a lot, or a single unit of a duplex home).

2. For a single service to a single property that is used as multi-family residential, commercial, or industrial property that has the public water main fully extended to it or adjacent to it so the public water main is accessible within the limits of the property, the connection fee shall be
paid based upon a linear foot rate per property frontage as set by resolution of the City Council, but in no case shall be less than the fixed rate per single residential property listed in 1 above which is also set by resolution of the City Council. The property frontage shall be measured as the dimension of the lot or parcel adjacent to the water main. If the lot or parcel has a double frontage, the linear measurement shall be taken from the side the connection is made.

3. For existing lots or parcels that are already occupied and that do not have public water main extended to it or adjacent to it, and where as the City participates in extending the public water main to serve these properties, the connection fee shall be established on a property frontage rate based upon the total frontage serviced by the extension of the public water main system and the total “applicable” cost of the public water main extension project. The connection fee shall be proportioned based upon the frontage of the parcel or lot connecting to the public water main relative to the total frontage of the properties served by the water main extension project. The City Council shall determine which costs of the water main extension project shall be “applicable” to establishing this connection fee, and how the property frontage shall be determined. This fee shall be an amount set by resolution of the City Council at the time the water main extension project has been completed.

4. For the purpose of improving undeveloped lots or parcels of real estate (for any land use) that does not have public water main extended to it or adjacent to it, the connection charge shall be established on a front footage rate based upon the total frontage serviced by the extension of the public water main system and the total “applicable” cost of the public water main extension project. The City Council shall determine which costs of the water main extension project shall be “applicable” to establishing this connection fee, and how the property frontage shall be determined. This fee shall be an amount set by resolution of the City Council at the time the water main extension project has been completed.

5. For the purpose of improving undeveloped lots or parcels of real estate (for any land use) that have public water main extended to it or adjacent to it, and whereas a connection fee has not previously been established for this public water main or property as provided in 3 or 4 above, then the connection fee for this lot or parcel shall be paid based upon a linear foot rate per property frontage as set by resolution of the City Council, but in no case shall be less than the fixed rate per single residential property listed in 1 above which is also set by resolution of the City Council. The property frontage shall be measured as the dimension of the lot or parcel adjacent to the existing water main.
6. Exceptions and possible reductions to the water main connection fees:

A. There shall be no charge for connecting to public water mains that have been extended as part of a new development, whereas the City has no direct participation in the cost of the water main improvements, and the connection to this water main shall be for new construction within this development.

B. For those existing lots or parcels of real estate that were assessed as occupied or improved lots at the time the system was initially constructed, the connection fee may either be waived or reduced by the amount of the assessment fee paid if the property owner can provide the City with satisfactory documentation of the assessment and the amount of the assessment fees paid.

(Ord. 120 – Dec. 12 Supp.)

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

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a licensed plumber, and a plumber’s license may be suspended or revoked for violation of any of the provisions of these Water Service chapters.

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

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired,
two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve of the inverted key type on the water service pipe twelve (12) inches outside the sidewalk line or rear lot line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter “W” marked thereon, visible and even with the pavement or ground. Where area walls or curb lines prevent the location of stop box and shut off at the point indicated, they shall be placed immediately within the area wall or curb line. All stop boxes must be set on a line drawn at right angles to the main through the service corporation or connection in the main.
90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

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

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

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

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

90.20 EXTENSIONS. The specifications for water main extensions and replacements dated July 13, 1983, as prepared by the City Engineer, Hall & Hall Engineering, and adopted by Council resolution No. 8483, are hereby adopted and the specifications are incorporated by reference as if fully set forth.
90.21 CROSS CONNECTION PROHIBITED. A customer shall not connect or cross connect any separate water supply to any premises which is also receiving water from the City’s water system.
[The next page is 435]
# CHAPTER 91

## WATER METERS

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<td>91.09</td>
<td>Right of Entry</td>
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### 91.01 PURPOSE.
The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

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

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

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

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

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

### 91.07 WATER METER DEPOSIT. (Repealed by Ordinance No. 11 – Apr. 04 Supp.)
91.08 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.09 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.
CHAPTER 92

WATER RATES

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

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

<table>
<thead>
<tr>
<th>Gallons Used Per Month</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 1,500</td>
<td>$12.00 (minimum bill)</td>
</tr>
<tr>
<td>1,501 to 25,000</td>
<td>$12.00 plus $7.25 per 1,000 gallons</td>
</tr>
<tr>
<td>25,001 and up</td>
<td>$182.38 plus $5.00 per 1000 gallons</td>
</tr>
</tbody>
</table>

(Ord. 5 – Dec. 18 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

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

(Code of Iowa, Sec. 384.84)
1. **Meters Read.** The City of Fairfax shall read the water meters monthly, using the automated radio read system. The City of Fairfax may require and therefore shall be granted access to the water meter.

2. **Bills Issued.** The Clerk shall prepare and issue bills for combined service accounts on or before the first (1st) day of each month.

3. **Bills Payable.** Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of each month.

4. **Late Payment Penalty.** Bills not paid by the fifteenth (15th) day of each month shall be considered delinquent and a late penalty of fifteen dollars ($15.00) shall be assessed. The late penalty shall be added to the next month’s bill.

   *(Ord. 111 – Mar. 11 Supp.)*

### 92.05 SERVICE DISCONTINUED.

Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. **Notice.** The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

   *(Ord. 76 – Sep. 08 Supp.)*

2. **Notice to Landlords.** If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

   *(Ord. 100 – Nov. 09 Supp.)*

3. **Hearing.** If a hearing is requested by noon of the day preceding the shut off, the Clerk, Mayor, and/or any Council Member shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If it is found that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. **Fees.** Before service is restored to a delinquent customer, a fee shall be charged based on the following graduated scale: twenty-five dollars ($25.00) will be charged for up to two (2) reconnects in any 12-month period; fifty dollars ($50.00) will be charged for the third and any subsequent reconnects during any 12-month period. No fee shall be
charged for the usual or customary trips in the regular changes in occupancies of property.  

(Ord. 72 – Nov. 07 Supp.)

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

(Code of Iowa, Sec. 384.84)

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord’s written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service. 

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

**92.09 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. During a period when service is temporarily discontinued as provided herein there shall
be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

**92.10 CUSTOMER DEPOSITS FOR RENTERS.** Every customer who rents, leases or otherwise occupies real estate which is owned by another, and who is responsible for the payment of utility bills to that property shall be required to pay to the City Clerk a deposit fee intended to guarantee the payment of bills for service. Renters who provide their social security number on the New Resident Utility Application form will pay a one hundred dollar ($100.00) deposit. Renters who do not provide their social security number on the New Resident Utility Application form will pay a two hundred dollar ($200.00) deposit. The deposit fee shall be held by the City Clerk in a trust and agency account, without interest paid to the customer, until such time as the customer’s use of the utilities shall cease, at which time the deposit fee shall be returned upon settlement in full of the customer’s account. The deposit fee may be used upon final settlement as a credit to offset against any amount owed by the customer. If a customer who has paid a deposit fee desires to terminate use of services from one connection and desires to make application for use of services from another connection for which the customer would be required to pay a deposit fee, then the deposit fee already paid may remain on deposit for the new application if the customer pays the old account in full. It shall be the responsibility of the owner and tenant to make the necessary deposit before moving in. Utility service will be denied to any new tenants until all outstanding balances are paid in full to the City. The owner and tenant shall be jointly and severally responsible for any uncollected utility service charges.

*(Ord. 63 – Jan. 18 Supp.)*

**92.11 CUSTOMER DEPOSITS FOR OWNERS.** Every customer who is the record title holder (property owner) of the premises shall be required to pay to the City Clerk a deposit fee intended to guarantee the payment of bills for service. Property owners who provide their social security number on the New Resident Utility Application form will pay a seventy-five dollar ($75.00) deposit. Homeowners who do not provide their social security number on the New Resident Utility Application form will pay a one hundred-fifty dollar ($150.00) deposit. Property owners’ deposits shall be refundable after twelve (12) consecutive on-time payments have been received. In the event that services have been shut off for nonpayment of a utility service bill, the customer shall be required to pay all back bills, pay a fee to turn on service and pay a new deposit fee if no deposit is on file before service is restored. The new deposit fee shall be refunded after twelve (12) months if the customer has not been sent another delinquent notice. The utility deposit shall be held by the City Clerk in a trust and agency account, without interest paid to the customer, until such time as the customer makes twelve consecutive on-time payments, or
the customer’s use of the utilities shall cease, at which time the deposit fee shall be returned upon settlement in full of the customer’s account. The deposit fee may be used upon final settlement as a credit to offset against any amount owed by the customer. If a customer who has paid a deposit fee desires to terminate use of services from one connection and desires to make application for use of services from another connection for which the customer would be required to pay a deposit fee, then the deposit fee already paid may remain on deposit for the new application if the customer pays the old account in full.

<table>
<thead>
<tr>
<th>Social Security Number Provided</th>
<th>Deposit Amount</th>
<th>Customer Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>$100.00</td>
<td>Renter</td>
</tr>
<tr>
<td>NO</td>
<td>$200.00</td>
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<tr>
<td>YES</td>
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<td>Property Owner</td>
</tr>
<tr>
<td>NO</td>
<td>$150.00</td>
<td>Property Owner</td>
</tr>
</tbody>
</table>

*(Ord. 63 – Jan. 18 Supp.)*
CHAPTER 95

SANITARY SEWER SYSTEM

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

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

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

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

3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

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

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

6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.

18. “Sewer” means a pipe or conduit for carrying sewage.

19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more
than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

   (Code of Iowa, Sec. 716.1)

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

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner’s expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

   (Code of Iowa, Sec. 364.12 [3f])
   (IAC, 567-69.1[3])

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

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

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

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.
CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

96.02 Connection Fee. The following fee for connecting to the City’s wastewater collection system (Sanitary Sewer) shall be payable at the time a connection permit is granted by the Clerk, unless otherwise agreed to by the City:

1. For a single service to a single residential property that has existing public sewer fully extended to it or adjacent to it so as the public sewer is accessible within the limits of the property, the connection fee shall be a fixed rate per single residential property in an amount as set by resolution of the City Council (for this purpose, a single residential property shall be considered a single house on a lot, or a single unit of a duplex home).

2. For a single service to a single property that is used as multi-family residential, commercial, or industrial property that has existing public sewer fully extended to it or adjacent to it so as the public sewer is accessible within the limits of the property, the connection fee shall be paid based upon a linear foot rate per property frontage as set by resolution of the City Council, but in no case shall be less than the fixed rate per single residential property listed in 1 above which is also set by resolution of the City Council. The property frontage shall be measured
as the dimension of the lot or parcel adjacent to the sanitary sewer. If the lot or parcel has a double frontage, the linear measurement shall be taken from the side the connection is made.

3. For existing lots or parcels and undeveloped parcels of real estate that do not have public sewer extended to it or adjacent to it, and where as the City participates in extending the public sewer to serve these properties, the connection fee shall be established on a drainage area rate based upon the total drainage area served by the extension of the public sewer system and the total “applicable” cost of the public sewer extension project. The connection fee shall be proportioned based upon the area of the parcel or lot connecting to the public sewer relative to the total drainage area served by the sewer extension project. The City Council shall determine which costs of the public sewer extension project shall be “applicable” to establishing this connection fee, and the total drainage area served by this extension. This fee shall be in an amount set by resolution of the Council at the time the sewer extension project has been completed.

4. For the purpose of improving undeveloped lots or parcels of real estate (for any land use) that have public sewer extended to it or adjacent to it, and whereas a connection fee has not previously been established for this public sewer or drainage area as provided in 3 above, then the connection fee for this lot or parcel shall be paid based upon a linear foot rate per property frontage as set by resolution of the City Council, but in no case shall be less than the fixed rate per single residential property listed in 1 above which is also set by resolution of the City Council. The property frontage shall be measured as the dimension of the lot or parcel adjacent to the existing sanitary sewer.

5. Exceptions and possible reductions to the sanitary sewer connection fees:

   A. There shall be no charge for connecting to public sanitary sewers that have been extended as part of a new development, whereas the City has no direct participation in the cost of the sanitary sewer improvements, and the connection to this sanitary sewer shall be for new construction within this development.

   B. For those existing lots or parcels of real estate that were assessed as occupied or improved lots at the time the system was initially constructed, the connection fee may either be waived or reduced by the amount of the assessment fee paid if the property owner can provide the City with satisfactory documentation of the assessment and the amount of the assessment fees paid.

   (Ord. 121 – Dec. 12 Supp.)
96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a licensed plumber, and a plumber’s license may be suspended or revoked for violation of any of the provisions of these Sanitary Sewer chapters.

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the Uniform Plumbing Code, the laws of the State and other applicable rules and regulations of the City.

96.05 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less and no properly located “Y” branch is available, the property owner shall, at said owner’s expense, install a “Y” branch in the public sewer at the location specified by the City. Where the public sewer is greater than twelve (12) inches and no properly located “Y” branch is available, a neat hole may be cut into the public sewer to receive the building sewer with entry in the downstream direction at an angle of approximately forty-five (45) degrees. A 45-degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the private sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight for encasement in concrete. Special fittings may be used for the connection only when approved by the City. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent’s direction if such connection is approved.

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the Uniform Plumbing Code.

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

96.08 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter
shall be deemed a nuisance and the same shall be abated by the City in the
manner provided for the abatement of nuisances.

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

[The next page is 485]
CHAPTER 97

USE OF PUBLIC SEWERS

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

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

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
CHAPTER 97

USE OF PUBLIC SEWERS

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner’s expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100)
milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. **Viscous Substances.** Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. **Garbage.** Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

5. **Acids.** Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. **Toxic or Objectionable Wastes.** Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. **Odor or Taste.** Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. **Radioactive Wastes.** Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. **Excess Alkalinity.** Any waters or wastes having a pH in excess of 9.5.

10. **Unusual Wastes.** Materials which exert or cause:

    A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

    B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

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

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

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

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the
plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner’s expense.

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH’s are determined from periodic grab samples).
CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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

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

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

(IAC, 567-69.1[3])

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

(IAC, 567-69.1[3 & 4])

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

98.05  DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06  MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.
98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.
CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 Rate. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed and a flat charge for the Debt Service Retirement Fund as follows:

1. Amount of Water Consumed:
   A. 0 to 1,500 gallons or lesser amount per month – $14.00 (minimum bill).
   B. 1,501 to 25,000 gallons of water usage – $14.00 plus an additional $8.00 for each 1,000 gallons of water usage over 1,500 gallons.
   C. 25,001 gallons of water usage and up – $202.00 plus an additional $4.50 for each 1,000 gallons of water usage over 25,000 gallons.

2. Flat charge of $19.00 per month for the Debt Service Retirement Fund.

(Ord. 18 – Dec. 19 Supp.)

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

(Code of Iowa, Sec. 384.84)

99.04 Private Water Systems. Customers whose premises are served by a private water system only and in a benefited district and who elect not to install a City-approved water meter at their expense shall pay sewer charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

(Code of Iowa, Sec. 384.84)
1. Flat charge of fifty-one dollars and ninety-five cents ($51.95) per month.
2. Flat charge of $19.00 per month for the Debt Service Retirement Fund.

(Ord. 18 – Dec. 18 Supp.)

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

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

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.
CHAPTER 100

STORMWATER MANAGEMENT

100.01 Purpose and Intent. The purpose and intent of this chapter of this Code of Ordinances pertaining to Stormwater Management is to establish rules and regulations governing the managing and control of stormwater within the City in order to protect the public health, safety and welfare.

1. It is the purpose of this chapter to establish policies to comprehensively manage and control stormwater runoff in a safe and economical manner in developing areas for the purpose of promoting the health, safety and general welfare of the population, and for the protection of property.

2. It is also the intent of this chapter to provide for stormwater storage within the City where detention/retention basin facilities have been determined to be beneficial in reducing the peak runoff to subservient lands.

3. It is also the intent of this chapter to provide for stormwater quality within the City in developing areas for the purpose of promoting stormwater infiltration and/or reducing the transportation of pollutants off-site that are commonly found in stormwater runoff in developed sites.

4. Requirements shall be established by this chapter in an effort to manage stormwater runoff from development sites. Except as exempted in this chapter, a stormwater management plan, as set forth herein, will be required as part of proposed development activities.

100.02 General Objectives. The following are the general objectives for this Stormwater Management Chapter in this Code of Ordinances:

1. To integrate Stormwater Management Plans in the Fairfax Area with other community plans such as the Comprehensive Plan.

2. To encourage innovative and economic solutions which provide for multipurpose use of stormwater management facilities. The use of
land solely for conveyance or storage of stormwater runoff should be minimized.

3. To identify the roles and shared responsibilities of all participants in urban stormwater management, including regular maintenance of stormwater management facilities.

4. To implement a program addressing both individual development sites and a watershed (drainage area) approach to the planning and construction of stormwater management facilities.

5. To develop stormwater management standards to minimize soil erosion, sedimentation, and adverse effects on groundwater.

6. To reduce the adverse impacts on existing developed areas by the implementation of stormwater management practices on development sites.

7. To systematically reduce the existing level of stormwater inundation in areas currently experiencing flooding, in a manner consistent with the overall goals and objectives for stormwater management set forth in this chapter.

8. To adopt engineering methods and techniques for estimating stormwater runoff which can be updated as technology improves, and to systematically monitor the effectiveness of the stormwater management program.

100.03 DEFINITIONS. Wherever used in this chapter and printed with an initial capital letter, the terms listed below will have the meanings indicated. Words using the present tense shall include the future; the singular shall include the plural; the plural shall include the singular; the masculine gender shall include the feminine. The term “shall” is always mandatory, and the term “may” is permissive.

1. “Capacity of a Stormwater Facility.” The maximum volume or rate of conveyance available in a stormwater management facility, including freeboard, to store or convey stormwater without damage to public or private property.

2. “City.” The City of Fairfax, Iowa.

3. “City Council.” The City Council of the City of Fairfax, Iowa.

4. “City Engineer.” That position as approved and appointed by the City Council.

5. “Civil Engineer.” A professional engineer licensed in the state of Iowa to practice in the field of civil works.

6. “Comprehensive Plan.” The plan or series of plans prepared by the City or by the Linn County Regional Planning Commission to guide
the development and redevelopment of the City and the surrounding area. Such a comprehensive plan may include a Major Street Plan, Land Use Policy Plan, Open Space Plan, and other applicable plans available through the City of Fairfax.

7. “Control Structure.” Part of a stormwater management facility designed to regulate the stormwater runoff release rate.


9. “Detention Basin.” A stormwater management facility designed, constructed or modified to provide short term storage of stormwater runoff, which reduces the peak outflow to a rate less than the peak inflow.

10. “Development.” The improvement of land from its existing state.


13. “Overflow System.” The path taken by stormwater runoff as a result of flows which exceed the capacity of the underground drainage system. This path may include streets, channels, drainageways, or areas of sheet flows, and be located on public property or private property within an easement.

14. “Retention Basin.” A stormwater management facility designed, constructed or modified to provide long-term storage of stormwater runoff, which reduces the peak outflow during a specific rainfall event. This facility is typically designed to maintain a specific water elevation.

15. “Site.” A lot, parcel, or tract of land, or portion thereof, where development is occurring, or has occurred, and may, or may not, require additional permits.

16. “Storm Sewer System.” Facilities for the conveyance of stormwater runoff, typically a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and small swales.

17. “Stormwater Management Plan.” A site plan, certified by a Civil Engineer, including materials, construction phasing, grading activities, and methods used for:
A. The mitigation of increased stormwater runoff from the site.

B. Stormwater quality for the site, under the requirements set forth in the Cedar Rapids Metropolitan Area Engineering Design Standards Manual; or the Statewide Urban Design and Specifications (SUDAS) and Iowa Stormwater Management Manual.

18. “Stormwater Mitigation.” The prevention of damage from flooding to the developed site, adjacent streams, drainageways, streets, and public and private property; and to the reduction of soil erosion.

19. “Stormwater Quality.” The installation of Best Management Practices (BMP’s) to promote on-site infiltration to reduce the transportation of pollutants off-site that are commonly found in stormwater runoff in developed sites.

20. “Stormwater Runoff.” The flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.


100.04 EXEMPTIONS. The following are exempt from the requirements of this chapter:

1. Agricultural use of land.

2. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.

3. Land within flood plain areas as designated in the Federal Emergency Management Agency maps in effect at the time of development.

4. Areas deemed appropriate by the City Engineer.

100.05 APPLICATION. The requirements of this chapter shall apply to all development within the City:

1. Stormwater detention basins intended to serve single family residential development shall be publicly owned and maintained, unless determined otherwise by the City Council.

2. Non-single family lots with an overall area of one acre or more shall provide on-site stormwater detention, and shall be privately owned and maintained. Non-single family lots with an overall area less than one acre shall comply with one of the following, as approved by the City Council:
A. Privately owned, on-site detention basin.
B. Tributary to a privately or publicly owned detention basin.

In some watersheds, on-site stormwater detention may be required, at the discretion of the City Engineer, for non-single-family lots with an overall area of less than one acre.

3. At the discretion of the City Council, if a detention basin serves non-single family zoning districts and can provide stormwater attenuation for a substantial drainage area, the facilities may be publicly owned and maintained.

100.06 STORMWATER MANAGEMENT REQUIREMENTS.  The following shall be the requirements for stormwater management within the City:

1. For purposes of obtaining approval of a Stormwater Management Plan, a plan for the site meeting the requirements established in the Cedar Rapids Metropolitan Area Design Standards Manual; or the Statewide Urban Design and Specifications (SUDAS) and Iowa Stormwater Management Manual shall be submitted to the City Engineer for review and approval. All design criteria and plan details shall be in conformance with the Cedar Rapids Metropolitan Area Design Standards Manual; or SUDAS and the Iowa Stormwater Management Manual, and shall address stormwater mitigation as well as stormwater quality.

2. Construction of stormwater management facilities shall be in conformance with the approved Stormwater Management Plan for the site.

3. The Stormwater Management Plan, including site access and on-site stormwater detention facilities, shall be reviewed and approved by the City Engineer prior to the issuance of foundation permits, or building permits for the site. The improvements shall be constructed by the property owner or developer, and approved by the City prior to the issuance of final certificates of occupancy. For stormwater detention facilities that shall be publicly owned and maintained, the property owner or developer shall provide the City a record drawing detailing dimensions and elevations as well as certification that the facilities had been installed per the approved plans. The record drawing shall be prepared by an Iowa licensed Professional Engineer or Landscape Architect, and submitted to the City prior to the acceptance of the stormwater detention facility. The requirements of this paragraph may be deferred at the discretion of the City Council.

4. For sites on which privately owned and maintained stormwater detention and/or conveyance facilities are located, the property owner shall be responsible for the following:
A. All future grading, repairs, and maintenance.
B. Maintenance of the minimum stormwater detention volume, as approved by the City Engineer.
C. Maintenance of the detention basin control structure(s) and discharge pipe(s) to insure the maximum theoretical stormwater release rate, as approved by the City Engineer, is not increased.
D. Maintenance of the Best Management Practices (BMP’s) for stormwater quality as approved by the City Engineer.

5. The property owner shall place no fill material, or erect any buildings, obstructions, or other improvements on the area reserved for stormwater detention purposes, unless approved otherwise by the City Engineer.

6. The property owner shall dedicate to the City of Fairfax, by instrument or final platting, any property on which public stormwater detention basins will be located. If access to the stormwater detention facility is not dedicated as part of the facility, then ingress-egress easements for maintenance of public facilities shall be provided prior to final site approval.

7. Access to all publicly owned and maintained stormwater detention facilities shall be provided. If the stormwater detention facility is not contiguous with public right-of-way, then access shall be provided as follows:

   A. A parcel of land, a minimum 30 feet in width, shall be dedicated to the City as part of the stormwater detention facilities, or provided as an ingress-egress easement connecting the stormwater detention facilities to public right-of-way.
   B. No items shall be placed within an access easement that will obstruct or deter access to stormwater detention facilities for the purpose of maintenance or re-construction of the facilities.

8. To ensure that privately owned stormwater detention facilities are functioning as they were initially designed, and to control weeds and insects, the owner of these facilities shall file with the City a certification signed by a licensed Iowa professional engineer. The certification shall certify the following:

   A. The facilities current storage volume and release rate.
   B. The storage volume and release rate for which the stormwater detention facility was initially designed.
C. The ground cover of the stormwater detention facility is per current City ordinances.

D. The stormwater detention facility has no on-site erosion, or is not contributing to erosion immediately downstream of the stormwater detention facility.

E. Certification shall be filed every three years, on the anniversary of the City’s initial acceptance of the improvements to the stormwater detention facility.

9. Upon determination that a site is not in compliance with these regulations, the City Council may issue an order to comply. The order shall describe the problem and specify a date whereby the work must be completed, and indicate the penalties to be assessed for further noncompliance.

10. Except as provided in this chapter, no person shall engage in construction of stormwater management facilities, unless a Stormwater Management Plan has been reviewed and approved by the City Engineer.

100.07 FEES ESTABLISHED. The City Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. If and when such fees are established a submittal shall not be considered unless the appropriate fee has been submitted to the City.

(Ch. 100 – Ord. 89 – Aug. 09 Supp.)

100.08 CEDAR RAPIDS METROPOLITAN AREA ENGINEERING DESIGN STANDARDS AND CORE DISTRICT. The City of Fairfax adopted the Cedar Rapids Metropolitan Area Engineering Design Standards Manual for Public Improvement Projects by Resolution 2005-03 on January 11, 2005. The City of Fairfax also established a Core District within the City of Fairfax by Ordinance 128, on August 14, 2012. These documents change the storm water management requirements for certain lots as outlined below.

1. Storm Water Management requirements for Commercial, Industrial or Multi-Family Lots or Parcels developed and built upon prior to the City of Fairfax adoption of the Cedar Rapids Metropolitan Area Design Standards:

   A. Commercial, industrial or multi-family lots or parcels outside of the Core District that were developed and built upon prior to the City of Fairfax adopting the Cedar Rapids Metropolitan Area Engineering Design Standards Manual for Public Improvement Projects by Resolution 2005-03 on January
11, 2005, shall have the following requirements for storm water management:

(1) If there is no change in use, no additions or expansions to the building(s), parking areas or drives, or other hard surfaces or granular surfaces on the lot, then no storm water management shall be required.

(2) Storm water management shall be required per this section at the time that any single or combined (accumulative) expansions or additions on a lot reach or exceed the following limits:
   a. 10% of existing green space is converted to hard surface
   b. 15% of existing green space is converted to granular surface
   c. 20% of existing granular surface is converted to hard surface

Where:
- Hard Surface shall be considered a building, P.C.C. pavement, HMA (or A.C.C.) pavement, or Seal Coat (Chip & Seal).
- Green Space shall be considered any area that is vegetated, has no ground cover at all (soil), or water ways.
- Granular surface shall be considered all other areas – gravel, sand, asphalt millings, etc.

B. The storm water management provided on these lots shall be per the City’s Storm Water Management Ordinance, and shall be required to address the storm water run-off from any single or combined (accumulative) expansions or additions on the lot as of June 9, 2009, which is the date the City of Fairfax adopted the storm water management ordinance. The storm water management provided on the lot shall not be required to address the storm water run-off from development on a lot that occurred prior to the City’s adoption of the Storm Water Management Ordinance on June 9, 2009.

2. Lots or parcels that are vacant, but were developed or subdivided prior to the City of Fairfax adopting the Cedar Rapids Metropolitan Area Engineering Design Standards Manual for Public Improvement Projects by Resolution 2005-03 on January 11, 2005, shall provide storm water management with any improvements on the property per the full extent of the Storm Water Management Ordinance.
3. Lots or parcels that change to a more intensive use, or are redeveloped, shall provide storm water management per the full extent of the Storm Water Management Ordinance.

4. All expansions or additions on affected lots or parcels that have occurred between June 9, 2009 and the adoption of this ordinance shall be considered with any future expansions or additions on that property when determining the requirement for storm water management. These lots or parcels shall not be required to provide storm water management for the expansions or additions that have occurred during this time period until the next expansion or addition on the property.

(Section 100.08 – Ord. 131 – Dec. 12 Supp.)
CHAPTER 105

SOLID WASTE CONTROL

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

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

1. “Collector” means any person authorized to gather solid waste from public and private places.

2. “Director” means the director of the State Department of Natural Resources or any designee.
   
   (Code of Iowa, Sec. 455B.101[2b])

3. “Discard” means to place, cause to be placed, throw, deposit or drop.
   
   (Code of Iowa, Sec. 455B.361[2])

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

5. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
   
   (IAC, 567-100.2)
6. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

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

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

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

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

(IAC, 567-100.2)

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

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

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

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

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

(Code of Iowa, Ch. 657)

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

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

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

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

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])
4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

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

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

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

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

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

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

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

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

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

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

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

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

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

11. Hours Restricted. Burning shall be conducted during the hours of one-half hour after sunrise until one-half hour before sunset.

12. Container or Barrel Required. Burning shall be conducted in a container or barrel which has a one-inch spaced wired grate or other suitable spark-arresting device for the control of windblown materials.
105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned in a barrel on the premises or placed in containers as specified in Section 105.10(1) which are plainly marked with a “Y” and set out for collection from April 1 to October 31. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed forty (40) pounds. Yard waste does not include tree stumps.

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

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

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

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

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

(IAC, 567-100.2)

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

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

   A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not more than thirty-four (34) gallons in nominal capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed forty (40) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

      (1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;
      (2) Have handles, bails or other suitable lifting devices or features;
      (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;
      (4) Be of lightweight and sturdy construction.

   Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

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

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

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

4. **Nonconforming Containers.** Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

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

1. **Unlawful Use of Containers.** Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. **Interfere with Collectors.** Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. **Incinerators.** Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

105.12 **SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Bluestem Solid Waste Agency are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.
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COLLECTION OF SOLID WASTE

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of all recyclable material and solid waste, except as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

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

(IAC, 567-104.9[455B])

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

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises once each week, and all yard waste shall be collected once each week, from the first Tuesday in April through the second Tuesday in November.

(Ord. 16 – Apr. 04 Supp.)

106.05 ITEMS EXCLUDED FROM COLLECTION. The City will not collect dead animals, animal manure, motor vehicles, car bodies, liquids, hazardous or toxic wastes, explosives, hot ashes, solid or semi-solid waste resulting from industrial, commercial or agricultural activities, industrial by-products, sewage treatment wastes, combustible liquids, any article or bundle more than forty-eight (48) inches long and/or eighteen (18) inches in diameter and/or weighing more than forty (40) pounds, materials resulting from construction, demolition or repair of buildings except for properly contained or
bundled materials resulting from work done by the owner or occupant of the residential premises, or any article or bundle which by its nature constitutes a hazard to a collector of solid waste.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. Collectors shall comply with the contractor insurance requirements contained in Chapter 123 of this Code of Ordinances. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee for Collection. A fee of $15.50 for recyclables, solid waste, and yard waste collection and disposition, used or available, from each residential unit (as defined in the Solid Waste Agreement with the hauler) will be assessed each month. The fee allows one (65-gallon) container of solid waste each week, one (95-gallon) container of recyclables every other week, unlimited yard waste (originating from the address) each week April – November.

2. Each additional solid waste bag must have a tag affixed. The cost per waste collection tag is $1.50 and tags are available for purchase at the Fairfax City Hall, the Star Bar, Fairfax State Savings Bank, and Casey’s General Store in Fairfax.

3. Residents may choose to rent a yard waste container from Republic Services. If this option is chosen, the annual cost, as set by Republic Services, will be calculated to a monthly fee and billed on the City’s monthly utility bill, according to the current Solid Waste Contract.
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Any delivery or pick up fees, as set by Republic Services, will be charged on the City’s monthly utility bill at the time of the delivery or pick up. The monthly fee is $5.25 for yard waste container rental and the delivery or pick up fee is $15.00.

4. Residents may contact the City of Fairfax to schedule pick up of one large bulky item (as defined by the hauler) per month for an additional fee. Republic Services will pick up this item for free. The City of Fairfax will charge $15.00 to schedule this service. This fee will be charged on the City’s monthly utility bill at the time of the scheduled pickup.

5. Residents may contact the City of Fairfax to schedule a special pick up of an appliance or e-waste, as defined in the current Solid Waste Contract, through Republic Services for an additional fee. The City of Fairfax will charge $15.00 to schedule this service. The fee for the pick up will be set by Republic Services and is $15.00. Both charges, will be charged on the City’s monthly utility bill at the time of the scheduled pick up.

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

(Section 106.08 – Ord. 19 – Dec. 19 Supp.)

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)
CHAPTER 107

RECYCLABLE CORRUGATED CARDBOARD

107.01 Purpose. The responsibility for proper solid waste and recyclable materials management rests with the generator of the solid waste or recyclable materials. The responsibility for providing proper solid waste management and those services that avail the generator of the opportunity for proper solid waste and recyclable materials management rests with cities or the county. Private and public service providers transport solid waste and recyclable materials to support this management system. Landfill disposal of recyclable corrugated cardboard is unnecessary. Recyclable corrugated cardboard is easily identifiable, can be readily recycled locally, and facilities and resources are reasonably available in Linn County for the recycling and reuse of corrugated cardboard. Recyclable corrugated cardboard should be precluded from landfill disposal so as to extend landfill capacity, which is a limited resource. This chapter supports the landfill ban of recyclable corrugated cardboard in Linn County by requiring the separation and recycling of recyclable corrugated cardboard.

107.02 Definitions. The following words and phrases used in this chapter, unless the context clearly indicates otherwise, have the meanings ascribed to them in this section.

1. “Corrugated cardboard” includes containers or materials used in containers that have three or more layers of Kraft paper material; at least two exterior flat layers with one wavy interior core.
2. “Generator” means any person or entity whose activities or process produces solid waste.
3. “Non-recyclable corrugated cardboard” means cardboard with permanently attached packing material and/or non-paper liners; wax-coated cardboard; cardboard contaminated with oil, paint, blood, or other organic materials; or cardboard contaminated with any other material that renders the corrugated non-marketable. It does not include cardboard that has been contaminated through compaction in a hauling vehicle.
4. “Person” means any individual, municipality, public subdivision or other governmental or public agency; public or private corporation;
partnership, firm or association, other organization; receiver, trustee, assignee, agent; other legal representative of any of the foregoing; or other legal entity.

5. “Recyclable corrugated cardboard” includes marketable corrugated cardboard that may have glue, staples and/or tape, but does not have permanently attached packing material and/or non-paper liners and is not waxed, or contaminated with oil, paint, blood or other organic materials.

6. “Recyclable materials” means those materials composing solid waste that can be collected, processed, and used in the manufacturing of products or goods.

7. “Recycling” means any process by which waste, or materials that would otherwise become waste, are collected, separated, or processed or returned to use in the form of raw materials or products. “Recycling” does not include any form of energy recovery.

8. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined by Section 321.1, subsection 90 of the Iowa Code. Solid waste does not include hazardous waste as defined in Section 455B.411 of the Iowa Code, or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum contaminated soil which has been remediated to acceptable State or Federal standards.

**107.03 SEPARATION REQUIRED.** As part of the establishment and operation of a comprehensive solid waste reduction program consistent with the waste management hierarchy under Section 455B.301A of the Iowa Code, and consistent with and to the extent provided by the authority granted by Iowa Code Section 455B.302, all recyclable corrugated cardboard shall be separated by the generator from all other garbage, refuse and rubbish for the purpose of recycling. Recyclable corrugated cardboard may be mixed with other approved recyclable materials for recycling. Recyclable corrugated cardboard that has been separated from all other garbage, refuse and rubbish may be mixed with approved compostable materials and may be composted.
107.04 VIOLATION. Any person who violates, disobeys, omits, neglects, or who refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist constitutes a separate offense.
[The next page is 529]
CHAPTER 110

NATURAL GAS FRANCHISE

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Fairfax, Iowa, hereinafter called the “City,” a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company.

The term of this franchise shall be twenty-five (25) years beginning from and after the effective date of this ordinance†. Either the Company or the City may, not less than ninety (90) days nor more than one-hundred and eighty (180) days prior to the tenth, fifteenth and twentieth anniversary of the effective date of this ordinance, provide written notice to the other party of its desire to amend the franchise. The parties shall negotiate any amendment to the franchise in good faith for a period of up to ninety (90) days following receipt of notice. If, at the conclusion of the negotiation period, an amendment acceptable to the parties is not reached, either party may terminate the franchise provided such termination notice is provided to the other party within ninety (90) days of the conclusion of the negotiation period.

110.02 STATE CODE RESTRICTIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2013, or as subsequently amended or changed.

110.03 PIPES AND MAINS. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes,

† EDITOR’S NOTE: Ordinance No. 07, granting a natural gas franchise for the City, was passed and adopted on August 13, 2013.
CHAPTER 110  NATURAL GAS FRANCHISE

mains, conduits, and other gas facilities provided that the same shall be so placed as not to unreasonably interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff”), at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any street, alley or other public way in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of a street, alley, or public way. If the City has a reasonable alternative route for the street, alley or public improvement or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route or construction method. The City shall be responsible for surveying and staking the right of way for City projects that require the Company to relocate Company facilities. Subject to Section 10, if requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City’s project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove trees that are included in the City’s portion of the project, the City shall either remove the trees at its cost or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public ways for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets, alleys or other public way, and shall replace the surface, restoring it to the condition as existed prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify any street, alley, public way or other areas in or adjacent to the Company project to a condition superior to its previously existing condition, or to a condition exceeding its previously existing condition except to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

110.06 UTILITY EASEMENTS. Vacating a street, avenue, alley or public way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public way where the Company has natural gas facilities, the City shall provide Company with not less than sixty (60) days advance notice of the City’s proposed action and, upon request, grant the Company a utility
CHAPTER 110  NATURAL GAS FRANCHISE

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous 5 years.

110.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required by Sections 110.03, 110.04, 110.05, 110.06 and 110.07 of this Ordinance, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.09 INDEMNIFICATION. The Company shall defend indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned by the Company’s negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.10 INFORMATION. Upon reasonable request the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in City’s right of way, including documents, maps and other information in paper or electronic or other forms (“Information”). The Company and City recognize the Information provided will, under current Iowa law, constitute public records, but that nonetheless some Information provided may be confidential under state or federal law or both. Therefore, the City shall not release any Information without prior consent of the Company, and shall return the Information to Company upon request. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time.
110.11 **APPLICABLE REGULATIONS.** The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.12 **QUALITY AND QUANTITY.** During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company’s tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.13 **FRANCHISE FEE.** A franchise fee is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service pursuant to the Tariff and located within the corporate limits of the City in the amount of zero percent (0%) of the gross receipts, minus uncollectible accounts, derived from the sale of natural gas and distribution service pursuant to the Tariff.

110.14 **FEE EXEMPTIONS.** The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee, or increase, modify, decrease or eliminate the franchise fee. In no event shall franchise fees exceed a maximum of five percent (5%), unless otherwise authorized by law. The City shall give the Company a minimum 6-month notice prior to the request to increase, decrease or eliminate the franchise fee. The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to customer classes in compliance with Iowa law and Section 110.16 of this ordinance.

110.15 **COLLECTION OF FEES.** The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of the receipt of information required of the City to implement the franchise fee, including the City’s documentation of customer classes subject to or exempted from City imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

110.16 **IDENTIFYING CUSTOMERS.** The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than 60 days after receiving annexation ordinances from the City.
110.17 MODIFYING FEES. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than 60 days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the city council.

110.18 FRANCHISE FEE INDEMNIFICATION. The City shall indemnify the Company from claims to the extent arising out of the imposition and collection of the franchise fee, except to the extent caused by the Company. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

110.19 FEE REMITTANCE. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

- January, February, and March
- April, May, and June
- July, August, and September, and
- October, November, and December

Company shall provide City with notice at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

110.20 FRANCHISE FEE ADMINISTRATION COSTS. The City recognizes that the costs of franchise fee administration are not charged directly to the City. To the extent that City can demonstrate, to the reasonable satisfaction of City, that the initial or ongoing costs incurred by the Company in collecting franchise fees that Company are in excess of typical costs of franchise fee administration, Company may request City to reimburse it for such excess costs, such request not to be unreasonably denied.

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

110.22 OBLIGATION TO COLLECT. The obligation to collect and remit the fee imposed by this ordinance is modified or repealed if:
1. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

2. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable order (collectively, “final franchise fee action”) that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revision to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

110.23 OBLIGATION RELIEVED. The other provisions of this ordinance to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefore, under each of any of the following circumstances:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court.

2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.

3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

110.24 MANAGEMENT FEES. Upon implementation of a franchise fee, and for so long as a franchise fee is in place, the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company a right of way management fees as otherwise authorized under Chapter 480A.3 of the Code of Iowa.

110.25 TERMINATION. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching
party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

110.26 SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

110.27 EFFECTIVE. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication.

110.28 PRIOR FRANCHISES REPEALED. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ch. 110 – Ord. 07 – Oct. 17 Supp.)
CHAPTER 111
ELECTRIC FRANCHISE

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

111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials,

† EDITOR’S NOTE: Ordinance No. 81, granting an electric franchise for the City, was passed and adopted on January 13, 2009.
restoring the condition as nearly as practical and if defects are caused shall repair the same.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company’s facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

111.05 METERS AND SERVICE LINES. The Company, its successors and assigns shall furnish and install all meters at its own expense and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

111.06 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

111.07 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company’s equipment, and in such event service shall be resumed as quickly as is reasonably possible.
111.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.

111.10 ACCEPTANCE BY COMPANY. The franchise granted by this chapter shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of the ordinance codified by this chapter.

111.11 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City as of the date the ordinance codified by this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.
CHAPTER 111A

ITC MIDWEST LLC ELECTRIC FRANCHISE

111A.01 FRANCHISE GRANTED. Until January 13, 2024, there is hereby granted to ITC MIDWEST LLC, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Fairfax, Linn County, Iowa, a transmission system for high power electric voltage lines of 34,500 volts and greater and transmission substations (“High Voltage System”) and for the purpose of operating the High Voltage System, the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City of Fairfax, Linn County, Iowa; also for the purpose of operating the High Voltage System, the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of Fairfax, Linn County, Iowa; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111A.02 INTERFERENCE AND INDEMNIFICATION. The poles, wires, appliances and equipment shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, avenues, and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

111A.03 EXCAVATIONS. In making any excavations in any street, alley, avenue, or public place, the Company, its successors, and assigns, shall protect the site while work is in progress, shall not unnecessarily obstruct the use of the streets, shall backfill all openings in such a manner as to prevent settling or depressions on the surface, and shall replace the surface, pavement, or sidewalk of such excavations with the same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.
111A.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City of Fairfax in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company’s facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities until the reasonable cost of relocating the same are paid to the Company.

111A.05 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

111A.06 CONTINUOUS SERVICE. The Company shall provide continuous service consistent with its tariffs and the State and Federal Regulations that apply to it.

111A.07 PRUNING. The Company is authorized and empowered to prune or remove at Company expense any trees or shrubs extending into any street, alley, right-of-way or public grounds to maintain electric reliability, to maintain safety, to restore utility service, and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning shall be completed in accordance with nationally accepted safety and utility industry standards.

111A.08 NON-EXCLUSIVITY. The franchise granted by this chapter shall not be exclusive.

111A.09 TERM OF AGREEMENT. The term of the franchise granted by this chapter and the rights granted thereunder shall commence when this
franchise ordinance is accepted by the Company and will terminate on January 13, 2024.†

111A.10 EXPENSES. The expense of City’s management costs associated with the franchise ordinance shall be paid by the Company.

111A.11 CLOSING. This chapter sets forth and constitutes the entire agreement between the Company and the City of Fairfax with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. The City shall not directly or indirectly amend or modify this chapter via future legislative or administrative action without the consent of the Company.

(Ch. 111A – Ord. 125 – Dec. 12 Supp.)

† EDITOR’S NOTE: Ordinance No. 125, granting an electric franchise for the City, was passed and adopted on June 12, 2012.
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CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Authority of City

112.01 FRANCHISE GRANTED. The South Slope Cooperative Telephone Company of Norway, Iowa, a corporation, its successors and assigns, are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of twenty-five (25) years from the effective date of the ordinance codified herein†, for the purpose of constructing, maintaining and operating a general telephone, telegraph and communications system within the City.

112.02 AUTHORITY OF CITY. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

†EDITOR'S NOTE: Ordinance No. 112, granting a telephone franchise for the City, was passed and adopted by the Council.
CHAPTER 112A

SOUTH SLOPE DIGITAL VIDEO SYSTEM FRANCHISE

112A.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to South Slope Cooperative Telephone Company, Inc. ("South Slope"), its successors and assigns by the City of Fairfax, Iowa, (the "City"), to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a digital video system across public property in the City limits for a term of fifteen (15) years†, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. Sales and Service. To sell and supply digital video service to persons within the City;
2. Public Property. To use public property within the City; and
3. Other. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a digital video system.

112A.02 EFFECTIVE DATE OF FRANCHISE. The franchise shall become effective from and after the effective date of the ordinance codified by this chapter upon acceptance by South Slope and compliance by South Slope with all applicable Federal Communications Commission rules and regulations.

112A.03 ASSIGNMENT OF TRANSFER. South Slope shall not assign or transfer any right granted under this franchise to any other person, company or corporation without prior consent of the City Council, which consent shall not be unreasonably withheld, provided that South Slope shall have the right to assign the provisions of this franchise to a corporation or other entity to be formed and controlled by South Slope, without prior consent of the City.

† EDITOR’S NOTE: Ordinance No. 48, granting a digital video system franchise for the City, was passed and adopted on December 13, 2005, and was accepted by South Slope on December 22, 2005. An election was held February 21, 2006.
112A.04  **FAIR COMPETITION.** The City shall not enter into or renew any additional or existing franchise for cable television or digital video service on terms or conditions more favorable or less burdensome than those applied to South Slope pursuant to this chapter.

112A.05  **SEVERABILITY.** Should any section, clause or provision of this chapter be declared invalid by a court or administration agency of record, the same shall not affect the validity of this chapter as a whole or in any part there under other than the part so declared invalid. Any condition or provision of this chapter which is inconsistent with State or Federal law shall be deemed to be preempted and superseded. If the Federal Communications Commission (FCC) finally determines that the service offered by South Slope is not cable service or that the system is not a cable system, this franchise shall immediately terminate and be of no further force and effect. Nothing in this chapter shall impose any requirement that has the purpose or effect of prohibiting, limiting, restricting or conditioning South Slope’s provision of a telecommunications service or advanced telecommunications service.
CHAPTER 113

MEDIACOM CABLE TELEVISION FRANCHISE

113.01 Grant of Franchise

113.02 Sale or Assignment

113.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Mediacom (hereinafter referred to as the “Grantee”), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of fifteen (15) years†, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. Sales of Service. To sell and supply audio and video communication service to persons within the City;
2. Public Property. To use public property within the City;
3. Other. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

113.02 SALE OR ASSIGNMENT. The Grantee shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation to be formed and controlled by it without prior consent of the City.

† EDITOR’S NOTE: Ordinance No. 185, granting a cable television franchise for the City, was passed and adopted on November 9, 1993.
CHAPTER 114

STARWEST, INC. CABLE TELEVISION FRANCHISE

114.01 Renewal of Grant of Franchise

114.02 Sale or Assignment.

114.01 RENEWAL OF GRANT OF FRANCHISE. The renewal of a nonexclusive right is hereby granted to Starwest, Inc. (hereinafter referred to as the “Grantee”), its successors and assigns, to establish, construct, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for an additional term of twenty-four (24) years† under terms and conditions granted under Ordinance No. 100 and Ordinance No. 101, and in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. Sales of Service. To sell and supply audio and video communication service to persons within the City;
2. Public Property. To use public property within the City;
3. Other. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

114.02 SALE OR ASSIGNMENT. The Grantee shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation to be formed and controlled by it without prior consent by the City.

† EDITOR’S NOTE: Ordinance No. 209, granting a cable television franchise for the City, was passed and adopted on May 13, 1997.
CHAPTER 115

CABLE TELEVISION REGULATIONS

115.01 Definitions. For the purpose of this chapter, the following terms, phrases, words, and derivations have the meanings given herein.

1. “Company” means Mediacom, the grantee of rights under this regulatory chapter, and its lawful successors and assigns. “Company” may also be referred to as “grantee.”

2. “Cable television system” or “system” means any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party and distributes such signals and programming by wire, cable or other means to persons who subscribe to such service.

3. “Federal Communications Commission” or “FCC” means the federal agency constituted by the Communications Act of 1934 as amended.

4. “Gross revenues” means all revenue derived or produced from or in connection with or related, directly or indirectly, to the operation of the system within the City by the Company or its affiliates, subsidiaries, parents or any person which the Company has a financial interest from or in connection with the operation of the system within the City, with no deductions whatsoever.

5. “Plant mile” means a linear mile measured on the ground where wire, cable or other means is hung on strand or buried underground.
115.02 QUALIFICATIONS OF GRANTEE AND GRANT OF AUTHORITY. This regulatory ordinance which grants to the Company the nonexclusive right to construct, operate and maintain a cable television system in the City, was passed and adopted by the Council after a public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the Company. Therefore, the City hereby grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and in all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

115.03 FRANCHISE TERMS. The franchise granted the Company herein shall terminate fifteen (15) years from date of grant. The Company shall notify the City at least three (3) years prior to the expiration of its franchise as to whether or not the Company intends to seek a franchise renewal. The Council, upon notification by the Company of its intention to seek franchise renewal, shall follow all procedures of law effective and applicable at that time.

115.04 COMPLIANCE WITH LAWS, REGULATIONS AND ORDINANCES. The Company, at all times during the life of the regulatory ordinance codified in this chapter, shall be subject to all lawful exercise of police power by the City and to such reasonable regulation as the City shall by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the National Building and Electric Code and National Electric Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other codes, ordinances, rules and regulations now in effect or hereafter adopted by the Federal Communication Commission, the City, or other agency of the State of Iowa or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized herein.

115.05 LIABILITY AND INDEMNIFICATION. The Company agrees to assume entire responsibility and liability for all damages or injury to all
persons, whether employees or otherwise, and to all property arising out of, resulting from or in any manner connected with, the execution and performance by the Company or the City of the terms and conditions of this chapter or occurring or resulting from the use by the Company, its agents or employees of material, equipment, instrumentalities or other property, whether the same be owned by the City, the Company or third parties; and the Company agrees to indemnify and save harmless the City, its employees, agents and elected officials from all such claims, including, without limiting the generality of the foregoing, claims for which the City may be or may be claimed to be liable, and legal fees and disbursements paid or incurred to enforce the provisions of this section; and the Company further agrees to obtain, maintain, and pay for such contractual liability insurance coverage and endorsements as will insure the provisions of this section. The City shall notify the Company within a reasonable time after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract on the part of the Company. A failure or delay of the City to notify the Company shall not relieve the Company of its obligation to the City, unless the Company is prejudiced by such failure or delay. The Company further agrees as follows:

1. **Worker’s Compensation and Employer’s Liability.** The Company shall carry Worker’s Compensation Insurance, with statutory limits, and Employer’s Liability insurance as required by law.

2. **General and Auto Liability.** The Company shall carry Comprehensive General Liability and Comprehensive Automobile Liability insurance with bodily injury limits of not less than three million dollars ($3,000,000), naming the City as additional insured with separable limits of no less than said amount.

3. **Worker’s Compensation, General Liability and Automobile Liability.** Company’s Worker’s, Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company approved by the City, and Company agrees to furnish City with certified copies of certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless ten (10) days’ prior written notice shall first be given to the City. Where the Company is self-insured, it shall provide the City with documentation proving the viability of its self-insurance program and the size of its risk management fund.

4. **Performance Bond.** Within thirty (30) days after the effective date of the franchise, the Company shall file with the City clerk a performance bond in the amount of twenty-five thousand dollars ($25,000.00) to be maintained in full amount at all times in a surety
company approved by the City 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 City having jurisdiction over its acts or defaults under this chapter, and the payment by the Company of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the system.

5. Expenditure of the Security. If the Company fails to pay to the City any compensation required pursuant to this chapter within the time fixed herein; or fails to repay to the City, within such (10) ten days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Company in connection with this franchise; or fails, after three (3) days’ notice of such failure by the Clerk, to comply with any provisions of this chapter which the Council reasonably determines can be remedied by an expenditure of the security, the City may immediately be entitled to payment, with interest and any penalties, from the bond company, which amount shall be promptly paid by the bond company.

6. Resident Company and Agent. All insurance policies and bonds as are required of the Company in this regulatory ordinance shall be written by a company or companies authorized and qualified to do business in the State of Iowa. Certificates of all coverage required shall be promptly filed by the Company with the City.

115.06 Penalties. For violations of this chapter, the penalty shall be as follows:

1. For failure to obtain prior City approval regarding installation of various parts of the system as provided for in Section 115.15(6) – $100.00 per day.

2. For failure to provide data and reports as requested by the Council as required in Section 115.17 – $50.00 per day.

3. For persistent failure to comply with this chapter and reasonable regulations adopted by the City pursuant to this chapter and such reasonable requests or recommendations as may be made pursuant to authority granted by this chapter – $50.00 per day.

4. In the event that the system fails to meet any FCC performance standards for a full three (3) month period, Grantee shall pay a penalty equal to 5% of the Company’s gross revenues for the period during which the system failed to meet the standards. The City shall notify the Company during the first month of the three-month period that the system has failed to meet performance standards.
115.07 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. The Company shall file with the Federal Communication Commission any request, petition or other application as is proper to secure from said Federal Communication Commission any and all necessary permits, licenses, waivers, or the like as may be necessary to be secured from said Federal Communication Commission to fully comply with the terms of this chapter. The Company shall concurrently submit same to the City. The Company shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from the FCC. The Company shall keep the City advised, from time to time, of the progress of such applications.

2. In furtherance of the Company’s execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for the use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company’s receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State or Federal agency may require. The Company shall construct its cable system using materials of good and durable quality and all work involved in the construction, installation, maintenance or repair of the cable system shall be performed in a safe, thorough, reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition, at Company expense.

3. The Company’s system, poles, wires, and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property. However, in the event that the City shall annex further territory as authorized by law, the Company shall extend energized trunk cable to the portion of the City so annexed within a reasonable time acceptable to the Council. If the annexed area is already served by a competing cable company, the Grantee is not required to serve the area unless it is petitioned to do so by the residents of the annexed area at the
equivalent of 25 homes per mile. Nothing contained in this section shall
preclude the requirement of Section 115.08 of this chapter from being enforced.

4. All transmission and distribution structures, lines and equipment
erected by the Company within the City shall be located as to cause no
interference with the proper use of streets, alleys and other public ways
and places, and to cause no interference with the rights or reasonable
convenience of property owners who adjoin any of said streets, alleys or
other public ways and places. Wherever, within the City telephone and
electrical cable is underground at the time of installation, the Company
shall also place the cable television cable underground; at any time after
installation that the telephone and electrical cable is placed underground,
the Company shall also at the same time reinstall and place all cable
television cable underground.

5. In case of any disturbance of pavement, sidewalk, driveway,
ground or other surfacing, the Company shall, at its own cost and expense
and in a manner approved by the City, replace and restore all paving,
sidewalk, driveway, ground, bushes, grass, planting, and similar items or
surface of any street or alley disturbed, in as good of condition as before
said work was commenced. The City’s commissioner of streets and
public improvements or other designee shall approve requests of the
Company in advance, in the case of disturbance of pavement, sidewalk,
driveway, ground, or other surfacing. Further, the commissioner of
streets and public improvements or other designee shall approve in
advance, the time allowed for the Company to disturb pavement,
sidewalk, driveway, ground or other surfacing.

6. In the event at any time during the period of the franchise the City
shall elect to make any improvement or change to any street, alley or
other public way, the Company upon reasonable notice by the City, shall
remove, relay and relocate its poles, wires, cables, underground conduits,
manholes and other fixtures at its own expense.

7. The Company shall not place poles or other fixtures where the
same will interfere with any gas, electric or telephone fixture, water
hydrant or main. The Company, prior to commencement of any
construction of any parts or phases of the system, shall prepare a plat and
construction schedule, which such plat and schedule shall be kept on file
by the Company and may be reviewed by the Council or its authorized
representative prior to the commencement of any such construction by
the Company, at the City’s option.
8. The Company, on the request of any person holding a building moving permit issued by the City, shall temporarily and promptly raise or lower its wires to permit the moving of said buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require payment in advance. The Company shall not be given less than forty-eight (48) hours’ advance notice to arrange for such temporary wire changes.

9. The Company shall have the authority to trim trees upon or overhanging any streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with wires and cables of the Company. All trimming shall be done under the supervision and direction and with the prior approval of the City Forester. All trimming authorized by this chapter shall be done at the expense of the Company.

10. The Company shall provide upon request and without installation charge or any type of continuing user charge or fee, service to any municipal building owned or leased and operated by the City. This shall mean only an energized cable to such building. The cost of any internal wiring shall not be the expense of the Company.

11. The Company shall provide, upon request and without installation charge or any type of continuing use charge, service to any municipal building, to any public or parochial elementary or secondary school buildings, to any non-profit higher education building, to any buildings of private or public non-profit facilities licensed by the State of Iowa as hospitals, and any other non-profit public educational agencies. This shall mean an energized cable to such building. The cost of any internal wiring shall not be borne by the Company. The Company shall have the authority to enforce signal leakage standards established in the Federal Cable Act.

12. Any public or parochial school, any non-profit higher educational institutions, any buildings of private or public non-profit facilities, licensed by the State of Iowa as hospitals, any other non-profit public educational agencies and any municipal buildings owned or leased and operated by the City shall be allowed to purchase converters from the Company at a reasonable cost, or from any other source provided that such converters meet all technical specifications required by the Company. If the converters are provided by the institution, either by purchase from the Company, or from another source, then the same shall be maintained by the institution or agency without any monthly charge.
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by the Company. If the Company provides the converter, then it shall be the responsibility of the Company to maintain the converter.

115.08 LINE EXTENSIONS. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically non-compensatory as approved by the Council. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, the Company shall extend service to new subscribers, at the approved installation charge and monthly rate for customers of that classification where there is an average of twenty-five (25) homes per each linear mile of new cable construction. In the event that the standards of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory as shall be determined by the Council.

115.09 COMPLIANCE WITH STANDARDS. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the City and/or any other local, State or Federal agencies, including all amendments.

115.10 COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions subject to the approval of the Council governing its obligations under this chapter, and to assure an uninterrupted service to each and all of its customers, provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal or State laws, City ordinances or rules and regulations of the City. The Company shall not create rules and regulations that preclude the subscriber from having an outside antenna system and antenna switch device. The Company may publish a list of acceptable switch devices and make said list available to its subscribers. The Company is responsible for maintenance of switch devices furnished by itself, but not if furnished by a source other than the Company.

115.11 APPROVAL OF TRANSFER.

1. No transfer of control of the cable system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance of any other form of disposition, without prior notice to and approval by the Council which shall not be unreasonably refused. The notice shall include full identifying particulars of the proposed transaction, and the Council shall act by resolution, or disapprove a
transfer of control; if no action is taken within sixty (60) days, approval shall be deemed to have been given.

2. The consent or approval of the Council to any assignment, lease, transfer, sublease or mortgage of the Company shall not constitute a waiver or release of the rights of the City in and to the streets.

3. For the purposes of this section the term “control” is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

4. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent (10%) of the voting shares of the Company.

5. A mortgage or pledge of the cable system equipment or any part thereof or a leasing by a Company from another person of said cable system equipment or part thereof for financing purposes or otherwise shall be made only with the prior approval of the Council and shall be subject and subordinate to the rights of the City under this chapter or applicable law.

6. The Company shall give the City written notice of any sale, lease, or transfer of any kind of more than five percent (5%) of the voting shares of the Company. Upon such notice, the City may require the Company to produce for its examination any documents or books of account relating to the condition of the Company.

115.12 COMPLIANCE WITH FCC RULES AND REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing system operations promulgated by the FCC rules regarding technical and engineering specifications Involved in the construction of the system and a signal carriage therein.

115.13 CHANNEL CAPACITY, EXCESS AND PICTURE QUALITY. The Company shall:

1. Establish a system with channel capacity of 550 MHz or 77 channels, whichever is greater. There shall be no diminution, a lessening of the mix, level or quality of services due to such expansion or any other implementation of any technological advancement. The Company will install and maintain a cable television system in keeping with latest state-of-the-art technology including the capability for satellite reception.

2. Provide at least one shared channel without charge for those educational uses as now or hereafter required by the Federal Communications Commission.
3. Provide at least one shared channel for those public access uses as now or hereafter required by the Federal Communications Commission. To the extent time is available, access channels may also be used for other broadcast and nonbroadcast services.

4. Establish a system capable of passing standard color television signals without the introduction of material degradation of color fidelity and intelligence from the headed input to the subscriber’s television receiver.

115.14 ACCESS REQUIREMENTS. For purposes of providing minimal provisions for access, the Company shall meet the requirements of all FCC rules which are in effect.

115.15 CITY RIGHTS.

1. City Rules. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary and reasonable in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall not be in conflict with the right herein granted, and shall not be in conflict with the applicable laws of the State of Iowa or the United States.

2. Use of System by City. The City shall have the right, during the life of the franchise, of maintaining upon the poles or in the underground conduits of the Company within the City limits wire and fixtures necessary for a traffic signal control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all the reasonable rules and regulations of the Company. The City shall also have the right to lease spectrum space from the Company for these purposes at reasonable rates subject to the technical capability of the cable system.

3. Emergency of Disaster. In the case of any emergency or disaster declared by the Mayor, the Company shall make available its facilities to the City for emergency use during the emergency or disaster period. The Company shall, at its expense, provide the Mayor’s office with the emergency override equipment activated by phone lock-out, or any other feasible method or methods.

4. Liability. The City shall not be liable for any damages occurring to the property of the Company caused by employees of the City in the performance of their duties, except for gross negligence. The City shall further not be liable for the interruption of service by actions of City
employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.

5. No Property Right. Nothing in this chapter shall grant to the Company any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any fashion other than in the City’s judgment its own business or needs may require.

6. Construction Approval by City. Except for individual service drops, the Company shall not erect any pole, install any underground lines or conduit, run any line, make any attachment, nor shall any construction of any kind be commenced without the prior approval of the commissioner of streets and public improvements or other designee, which approval shall not be unreasonably withheld, and the City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this regulatory chapter.

7. Correction of Defects. In the event the Company should violate any of the terms of this regulatory chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the City shall immediately give to the Company thirty (30) days’ written notice to correct such violation, and in the event the Company does not make such correction within thirty (30) days from the receipt of such written notice, the Company shall then be subject to cancellation of the franchise, and after the expiration of an additional thirty-day written notice of cancellation from the City to the Company, the Company’s franchise, and its right to operate thereunder in the City shall stand forfeited and canceled.

8. Franchise Right. The City expressly reserves the right to grant additional franchises within the City to other persons for the conduct of other cable television systems under any conditions acceptable to the City, notwithstanding that they might be alleged to be more favorable than the rights granted herein.

115.16 ACTIVITIES PROHIBITED.

1. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any
manner the operation of the various utilities serving the residents of the City.

2. The Company may, as to rates, charges, service facilities, rules or regulations, grant preference or advantage to any person without prior approval of the Council. Nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules.

3. The Company may assess a monetary penalty against a system user as a result of failure to pay a user’s bill by a specified date. However, no subscriber service shall be discontinued without such procedure and hearing as required by law.

4. The Company shall credit all subscriber or system user accounts for any loss of service that exceeds twenty-four (24) hours. However, the subscriber must notify the Company of the loss of service to receive the credit.

115.17 RECORDS AND REPORTS. The Company may keep full, true, accurate and current books of account, which shall be made available for inspection to an auditor appointed by the City upon reasonable notice and during normal business hours. The City may order an audit of books and records, from time to time, and may also require the Company, not more than once a year, to furnish the City a copy of an audit at the Company’s expense from an independent auditor.

115.18 SUBSCRIBER RATES AND CHARGES. The City reserves the right to regulate rates pursuant to any law or regulation granting such right.

115.19 COMPLAINT PROCEDURES. The Company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address, and local telephone numbers of the employee or agent to whom such inquiries or complaints are to be addressed. The Company shall by appropriate means require its employees or representatives to wear proper identification at all times. The City designates a City employee to be responsible for the continuing administration of the franchise, and implementation of complaint procedures.

115.20 PROTECTION OF PRIVACY.

1. Except to the extent allowed by Federal law for the purpose of investigation and uncovering of theft of premium channels, the Company shall not permit the transmission of any signal, aural, visual or
digital, including “polling” the channel selection, from any subscriber’s premises without first obtaining written permission of the subscriber.

2. The Company shall not permit the installation of any special terminal equipment in any subscriber’s premises that will permit transmission from subscriber’s premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

3. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within the City for the purpose of enabling such person or others to take or receive television signals, radio signals, pictures, programs or sounds, without payment to the owner of said system.

4. The Company shall follow subscriber privacy regulations established by the FCC in the Federal Cable Act.

115.21 CITY RIGHTS TO PURCHASE SYSTEM.

1. The City shall have the right to purchase the cable system if this franchise chapter is terminated at the end of the franchise term. Should the City decide to purchase the system, it shall do so at a price not to exceed its then fair market value. In determining the fair market value of the system, the original cost of all tangible and intangible property as well as the salvage value, the book value, the replacement cost, cash flow, and other factors may be considered.

2. The Council reserves the right to review the purchase price of any transfer or assignment of the system, and any assignee to this chapter expressly agrees that any negotiated sale value which the Council deems unreasonable will not be considered in the rate base for any subsequent request for rate increases. Reasonableness of purchase price will be determined in accordance with criteria listed in subsections 1 and 2 applying wherever a sale occurs following revocation; subsection 2 applying whenever the system is sold under any other circumstances.

3. Continuity of Service Mandatory. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Company are honored. In the event that the Company elects to overbuild, rebuild, modify, or sell the system, or the City terminates or fails to renew this chapter, or the City elects to purchase the system, the Company shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of circumstances. In the event of purchase by the City, or a
change of Company, the current Company shall cooperate with the City to operate the system for a temporary period in maintaining continuity of service to all subscribers.

4. At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided herein, the City shall have the right to require the Company to remove at the Company’s expense all portions of the cable television system from all streets within the City.

115.22 OFFER OF CONVERTERS. The Company has offered to provide converters, and the City by this chapter, accepts such offer, and by the terms of this chapter the Company is herewith required to provide such converters.

115.23 SYSTEM TESTING. The Company shall have on file for inspection by the City any and all testings either required by the FCC or filed with the FCC.

115.24 ADDITIONAL REGULATIONS. The City reserves the right to adopt, in addition to the provisions contained in this chapter, any additional reasonable regulations as it shall find necessary in the exercise of its police power, provided, however, that such regulations are not materially in conflict with the privileges granted in this chapter. However, notwithstanding and in addition to the foregoing, the City shall retain the right to amend this chapter, including regulation of rates, to correspond with changes in State, local or Federal statutes and administrative rules and regulations. This provision will be exercised in good faith by the Council.

115.25 PENALTIES. Should the Company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant thereto, and should such violation continue for more than thirty (30) days after the City has given the Company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of this franchise and the termination of all rights hereunder; provided, however, any delay in correcting the violation which is caused by factors beyond the control of the Company, shall not be included in computing the length of the continuance of the violation. In the event of the bankruptcy or receivership of the Company, all rights herein given to the Company shall at the option of the City, be forfeited and terminated.

115.26 PROGRAM CONTENT RESTRICTIONS.

1. In addition to providing basic cable television service consisting of broadcast, locally originated, access, and automated signals, the
Company may offer subscribers optional services on a per-program or per-channel basis (pay cable). The Company shall not, however, program or in any way display any programming that violates applicable obscenity laws.

2. Among the Company’s offered programming services shall be an option that would allow a subscriber to purchase a limited basic service consisting of: some or all locally receivable broadcasts, PBS, all access channels, all C-Span channels, a preview guide, and their successors.

3. The Company shall not charge a subscriber for any programming services without the subscriber’s prior consent to receive and pay for such programming.

115.27 EMPLOYMENT REQUIREMENT. The Company shall not refuse to hire, discharge from employment, or discriminate against any person regarding compensation, terms, conditions or privileges of employment because of sex, race, color, creed, handicap, age or national origin. The Company shall submit a copy of its Affirmative Action Program to the City within thirty (30) days subsequent to the effective date of this chapter, and at least annually thereafter during the term of the franchise.

115.28 BINDING ON COMPANY. The provisions, terms and conditions of this chapter shall be binding upon the Company and its successors, heirs and assigns upon acceptance hereof by the Company.

115.29 FRANCHISE FEE. The City reserves the right to charge the Company a franchise fee during each year of operation under this chapter equal to five percent (5%) of all the Company system’s gross revenues. This fee shall be charged at the sole election of the City, but only if a similar fee is charged to other cable companies operating under a franchise granted by the City.
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CHAPTER 119
FIREWORKS

119.01 LICENSE REQUIRED. No person shall sell or offer for sale consumer grade fireworks without first securing a Retail Fireworks License through the State Fire Marshal’s office for the State of Iowa.

119.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport commercial grade fireworks for sale without a license issued by the Iowa State Fire Marshal. A license may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

119.03 APPROVAL BY CITY OFFICIALS. All potential fireworks vendors must apply for a Fireworks Vendor Permit for Fairfax, Iowa. Applications shall include all information supplied to the State Fire Marshal and include a copy of all insurance requirements and a copy of the State of Iowa Consumer Fireworks License.

119.04 PERMIT AND INSPECTION FEES. All fees pertaining to Fireworks Vendor Permits and inspections are set by resolution of the Fairfax City Council at the Councils’ discretion.

119.05 INVESTIGATION. City officials may investigate any Fireworks Vendor Permit Application, including forwarding it to the Sheriff’s Department, either of which could then submit a written report as to the truth of the facts given in the application. Applications and/or permits may be denied, revoked or suspended based on said written investigation report or by vendors not conforming to the applicable State laws and/or City ordinances pertaining to consumer fireworks sales.

119.06 ZONING REQUIREMENTS. All consumer grade fireworks retail sites, whether temporary or permanent structure, are restricted to C2, Highway Commercial Zoning not directly abutting or adjacent to any residential zoned lots.

119.07 SIGNAGE FOR TEMPORARY SITES AND STRUCTURES. Temporary sites and structures will be limited to one sign advertising fireworks for sale. Said sign may display the business name, hours of operation, and
other information. Size limitations are four (4) feet by eight (8) feet maximum.
No other advertising signage, banners, ribbons, flags, graphics, discounts and/or
sales information shall be visible from outside the structure. This section does
not limit safety signage or flags of either the U.S.A. or the State of Iowa in any
way.

119.08 USE AND DISPLAY OF LEGAL FIREWORKS. Fireworks can
be used and displayed by the general public during the legal dates and times set
forth by the Iowa State Fire Marshal’s office. It shall be illegal to use or
display fireworks outside of these dates and times.

The City may, upon application in writing, grant a permit for the use and
display of fireworks by a City agency, fair associations, amusement parks and
other organizations or groups of individuals approved by City authorities either
outside of the times and dates set by the State Fire Marshal or for other than
commercial grade fireworks, when such fireworks display will be handled by a
competent operator. No permit shall be granted hereunder unless the operator
or sponsoring organization has filed with the City evidence of insurance in
amounts set by resolution of the Council.

(Ch. 119 – Ord. 59 – Jan. 18 Supp.)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

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

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

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

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

(Ord. 56 – Oct. 17 Supp.)

(Code of Iowa, Sec. 123.30)

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

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

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person’s or club’s agents or employees shall not do any of the following:
1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.
   
   *(Code of Iowa, Sec. 123.49 [1]*)

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o’clock (2:00) a.m. and six o’clock (6:00) a.m. on a weekday, and between the hours of two o’clock (2:00) a.m. on Sunday and six o’clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o’clock (8:00) a.m. on Sunday and two o’clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o’clock (8:00) a.m. on Sunday and two o’clock (2:00) a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of eight o’clock (8:00) a.m. on Sunday and two o’clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year’s Day.

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

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

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

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

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

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

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

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

   *(Code of Iowa, Sec. 123.49 [2a]*)
7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.
   
   *(Code of Iowa, Sec. 123.49 [2j]*)

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.
   
   *(Code of Iowa, Sec. 123.49 [2d]*)

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.
   
   *(Code of Iowa, Sec. 123.49 [2e]*)

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.
    
    *(Code of Iowa, Sec. 123.49 [2g]*)

11. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 OUTDOOR SALES. Any outdoor sales of alcohol must be in an area approved by Council and adhere to all conditions below:

1. Entire perimeter of outdoor sales area shall be enclosed by fence meeting appropriate design requirements for intended length of use in order to control the consumption of alcohol after the sale.

2. Special event fencing for short term, less than two (2) weeks, requires a temporary double fence with five (5) open feet between fences and staffed entry/exit points.

3. Permanent business establishments shall erect a six (6) foot high fence with a single exit gated opening that operates only from the interior and posted as a fire exit. This shall be a solid, privacy fence and gate installed as a permanent improvement.
4. All outdoor service areas proposed shall be submitted to City Staff for recommendations along with a complete drawing of fenced area and any building(s) used as part of the outdoor alcohol service area prior to being added to the Council agenda for approval.

5. Outdoor service areas shall be inspected by the Fairfax Building Department prior to use.

6. Established business must include outdoors service area in the State of Iowa liquor license.

(Ord. 56 – Oct. 17 Supp.)
CHAPTER 121

CIGARETTE PERMITS

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

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

3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

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

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

6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

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

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

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

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

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

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

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

<table>
<thead>
<tr>
<th>FOR PERMITS GRANTED DURING:</th>
<th>FEE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>July, August or September</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>October, November or December</td>
<td>$ 56.25</td>
</tr>
<tr>
<td>January, February or March</td>
<td>$ 37.50</td>
</tr>
<tr>
<td>April, May or June</td>
<td>$ 18.75</td>
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</tbody>
</table>

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

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

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

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person
CHAPTER 121  
CIGARETTE PERMITS

under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer’s permit shall be suspended for a period of thirty (30) days.

3. For a third violation within a period of three (3) years, the retailer’s permit shall be suspended for a period of sixty (60) days.

4. For a fourth violation within a period of three (3) years, the retailer’s permit shall be revoked.

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

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36 (6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.  

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.  

(Code of Iowa, Sec. 453A.22)
CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

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

1. “Peddler” or “peddling” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. “Solicitor” or “soliciting” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 License Required. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.
CHAPTER 122   PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of fifteen dollars ($15.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. In addition to the application fee, a license fee in the amount of ten dollars ($10.00) shall be paid to the Clerk prior to the issuance of any license for a period of one year or major part thereof.

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

122.07 INSURANCE REQUIRED. Before a license under this chapter is issued, an applicant shall provide to the Clerk a certificate of insurance showing evidence that the following insurance is maintained by the applicant:

1. Worker’s Compensation and Employers’ Liability Insurance as prescribed by Iowa law minimum limits shown below, covering Employers’ Liability:

   Bodily Injury by accident .......................$500,000 each accident
   Bodily Injury by disease ......................$500,000 each accident
   Bodily Injury by disease ......................$500,000 policy limit

2. Commercial General Liability Insurance Combined Single Limits shown below covering Bodily Injury, Property Damage and Personal Injury:

   General Aggregate Limits..........................$ 2,000,000
   Products – Completed Operations
     Aggregate Limit.................................$ 2,000,000
   Personal and Advertising Injury Limit ........$ 1,000,000
   Each Occurrence Limit..........................$ 1,000,000
   Fire Damage Limit (for any one fire) ........$  50,000
   Medical Damage Limit (any one person) ......$  5,000
3. Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of $500,000 per accident.

Each policy shall be issuance by an insurance company authorized to write such insurance in the State of Iowa and shall be reasonably acceptable to the City. These insurance policies shall not be canceled without at least ten (10) days’ prior written notice to the City.

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

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

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

122.11 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of eight o’clock (8:00) a.m. and nine o’clock (9:00) p.m.

122.12 REVOCATION OF LICENSE. After notice and hearing, the Mayor may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

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

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

122.15 RECORD AND DETERMINATION. The Mayor shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Mayor finds a violation of this chapter or State law based on a preponderance of the evidence.

122.16 APPEAL. If the Mayor revokes or the Clerk refuses to issue a license, the reasons therefor shall be made a part of the record. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision by a majority vote of the Council members present.

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

122.18 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars ($5.00) of the original fee shall be retained by the City to cover administrative costs.

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

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.

2. Club Members. Members of civic or service clubs that conduct regular meetings within the City limits, including by way of illustration but not necessarily limited to, Boy Scout, Girl Scout, 4-H Clubs, and Future Farmers of America.

3. Local Farmers. Farmers who offer for sale their own products.
4. Students. Students representing projects sponsored by organizations recognized by the College Community School District.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7. Residents. City of Fairfax residents who offer for sale their own products or items, as long as the following provisions are followed:
   A. Residially zoned properties shall be allowed no more than one garage sale each 30 days, excluding any City-wide organized garage sale event.
   B. Each garage sale shall last no longer than 72 hours.

(Ord. 124 – Dec. 12 Supp.)

122.20 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.16 of this chapter.
CHAPTER 122    PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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CHAPTER 123

CONTRACTORS’ INSURANCE REQUIREMENTS

123.01 INSURANCE REQUIRED. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor’s operations under the contract, whether such operations be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims under Workers’ Compensation, disability benefit, and other similar employee benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor’s employee;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor’s employee.

123.02 INSURANCE AMOUNTS. The insurance to be maintained by Contractor shall be written as follows:

Workers’ Compensation and Employers Liability Insurance as prescribed by Iowa law minimum limits shown below covering Employers Liability:

- Bodily Injury by accident $500,000 each accident
- Bodily Injury by disease $500,000 each accident
- Bodily Injury by disease $500,000 policy limit

Commercial General Liability Insurance Combined Single Limits shown below covering Bodily Injury, Property Damage and Personal Injury:

- General Aggregate Limit $2,000,000
- Products-Completed Operations Aggregate Limit $2,000,000
- Personal and Advertising Injury Limit $1,000,000
- Each Occurrence Limit $1,000,000
123.03 INSURANCE FEATURES. This insurance must include the following features:

1. Coverage for all premises and operations. The policy shall be endorsed to provide the Aggregate Per Project Endorsement.
2. Personal and Advertising Injury.
3. Operations by independent contractors.
4. Contractual Liability coverage.
5. Coverage for property damage underground or damaged by explosion or collapse (XCU).
6. Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of $1,000,000 per accident. Insurance must include Contractual Liability.
7. Umbrella/Excess Insurance: At Contractor’s option, the limits specified in may be satisfied with a combination of primary and Umbrella/Excess Insurance.
8. Additional Insured: The Contractor will include the City as additional insured for all policies except Workers’ Compensation as respects all work performed for the jurisdiction.
9. Insurance Certificates: Each policy noted above shall be issued by an insurance company authorized to write such insurance in the State of Iowa and shall be reasonably acceptable to City. These insurance policies shall not be canceled without at least 10 days prior written notice to City. A properly executed Certificate of Insurance showing evidence of these insurance requirements shall be delivered to City prior to the commencement of this lease.
10. The company and the insured expressly agree and state that the purchase of this policy of insurance by the insured does not waive any of the defenses of governmental immunity available to the insured under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.
11. The company and the insured further agree that this policy of insurance shall cover only those claims not subject to the defense of
governmental immunity under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.

123.04 SUBROGATION. To the extent that such insurance is in force and collectible and to the extent permitted by law, City and Contractor each hereby releases and waives all right of recovery against the other or anyone claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall apply to damage to contractor's equipment, tools, and other personal property as well as automobiles.
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CHAPTER 135

STREET USE AND MAINTENANCE

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>135.01</td>
<td>Removal of Warning Devices. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.</td>
</tr>
<tr>
<td>135.02</td>
<td>Obstructing or Defacing. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.</td>
</tr>
<tr>
<td>135.03</td>
<td>Placing Debris On. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.</td>
</tr>
<tr>
<td>135.04</td>
<td>Playing In. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.</td>
</tr>
<tr>
<td>135.05</td>
<td>Traveling on Barricaded Street or Alley. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.</td>
</tr>
<tr>
<td>135.06</td>
<td>Use for Business Purposes. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods,</td>
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</tbody>
</table>

(Code of Iowa, Sec. 716.1)

(Code of Iowa, Sec. 716.1)

(Code of Iowa, Sec. 321.369)

(Code of Iowa, Sec. 364.12[2])
wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

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

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

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

1. Excavation Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
   B. A statement of the purpose, for whom and by whom the excavation is to be made;
   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of ten thousand dollars ($10,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to
the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of ten thousand dollars ($10,000.00) may be filed with the City.

5. Insurance Required. Each applicant shall comply with the contractors’ insurance requirements contained in Chapter 123 of this Code of Ordinances.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee of $25.50 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Curb Opening Permit. No person shall make or cause to made any curb opening or curb cut except in accordance with the following:

A. Application. Application for a curb opening permit shall be made to the Clerk on forms furnished by the City.

B. Fee. Each application shall be accompanied by a permit fee in the sum of five dollars ($5.00).

C. Cutting Procedure. All curb cuts shall be made with a concrete saw. The cut along the base of the curb shall be made along a line eighteen (18) inches distance from and parallel with the back of the curb. Expansion joints shall be of material to be approved by the City and shall be inserted along the curb edge of the cut and the portion of the slab removed replaced with an equivalent grade and thickness of Portland Concrete.

135.10 SUBDIVISION SPECIFICATIONS. The specifications for construction or reconstruction for streets in subdivisions dated October 4, 1984, as prepared by the City Engineer, Hall & Hall Engineering, and adopted by the Council resolution No. 10484, are hereby adopted and the specifications are incorporated by reference as if fully set forth.

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

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

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

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

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

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

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

135.15 UTILITY AND COMMUNICATIONS BORING CONTRACTOR REQUIREMENTS. The City of Fairfax requires that all utility and communication installation projects where directional boring is the method of installation are required to televise sanitary and storm sewer(s) within a fifteen (15) foot radius of the proposed alignment determined by the most current plan set. This fifteen (15) foot radius is intended to capture all possible damage to the City owned sewer utilities within the alignment area.

Process for permits, televising and video submittal:

1. As part of the ROW permit, contractors will submit a ROW permit application indicating any directional boring installation. As part of the application contractors will show plans of any directional boring proposed prior to work beginning. This application and plan set shall be submitted to City Hall at least five (5) working days prior to project start date. Applications may be submitted in person, mailed or via email cphilipp@cityoffairfax.org.

2. Within four (4) weeks of completion of boring installation a camera inspection video shall be submitted to the City for the City’s review. Prior to camera inspection sewer lines shall be cleaned as needed at the City’s request and expense.

3. Non-Compliance. If a contractor chooses to not comply with the post directional boring televising requirement, the City’s Sewer Department will request to televise the sewer infrastructure post
construction. The utility owner will be billed for the City providing this service.

4. If Damage Has Occurred. Damage to sewer utilities shall be immediately reported to the City of Fairfax upon discovery of said damage. The City may allow the contractor whom caused the damage to make repairs with City staff inspecting. The City may, at its discretion, choose to make the repairs, or hire another contractor to make repairs, and bill the utility owner for full expense of repairs.

(Section 135.15 – Ord. 20 – Dec. 19 Supp.)
CHAPTER 136

SIDEWALK REGULATIONS

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

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
   
   A. Vertical separations equal to three-fourths (¾) inch or more.

   B. Horizontal separations equal to one (1) inch or more.

   C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

   D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

   E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

   F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

   G. A sidewalk with any part thereof missing to the full depth.
H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.


7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.

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

9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be per SUDAS (Statewide Urban Design and Specifications) Design Manual, Chapter 12A-Sidewalks, the current Edition, and shall also meet the following standards (if there is a contradiction between SUDAS and these standards, then these standards shall have precedence over SUDAS):

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

   A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

   B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
C. Sidewalks through driveways shall be a minimum 6” thick PC concrete.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.


A. A minimum 5 foot wide sidewalk section shall be constructed through all driveways to accommodate the Passing Space requirements (Chapter 12A of SUDAS). The 5 foot wide sidewalk through the driveway shall have a target cross slope of 1.5%, a maximum cross slope of 2.0%, and shall maintain the minimum 5 foot width throughout the entire driveway section. The alignment of the inner edge (edge of the sidewalk nearest the abutting private property) of the 5 foot wide sidewalk through the driveway shall remain in the same alignment as the inner edge of the sidewalk approaching the driveway.

B. If the distance between driveways is more than 200 feet, than a Passing Area (5’ min. by 5’ min.) shall be constructed within 200 feet from the nearest passing space. This Passing Area shall have a target cross slope of 1.5%, a maximum cross slope of 2.0%, and the inner edge of the Passing Area shall be in alignment with the inner edge of the approaching sidewalk.

C. The Turning Space (Chapter 12A of SUDAS) located at sidewalk ramps may be constructed as a Passing Space. If the Turning Space is used as a Passing Space, than it must be constructed 5’ min. by 5’ min., with a target cross slope and running slope of 1.5%, and a maximum cross slope and running slope of 2.0%. The additional pavement width (5’ Passing Space on a 4’ wide sidewalk) shall be installed on the back side (opposite the ramp) of the Turning Space.

(Ord. 25 – Oct. 17 Supp.)
136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

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

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

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

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

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.
CHAPTER 137

VACATION AND DISPOSAL OF STREETS

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

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

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

(Code of Iowa, Sec. 392.1)

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

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

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

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

(Code of Iowa, Sec. 364.7)
137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.  

(Code of Iowa, Sec. 174.15[2] & 364.7[3])  

(Ord. 99 – Nov. 09 Supp.)

**EDITOR’S NOTE**

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

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<td>129</td>
<td>February 6, 1986</td>
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CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

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

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

EDITOR’S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

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CHAPTER 139
NAMING OF STREETS

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

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

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

(Code of Iowa, Sec. 354.26)

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

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: “On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the Mayor and attested by the Clerk.
CHAPTER 140
CONTROLLED ACCESS FACILITIES

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

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

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

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

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

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

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities on the Primary Road System extension improvement, Project No. FN-255, Primary Road No. 151, within the City, described as follows:

Beginning at the SCL at Sta. 178+70.0, thence northeasterly to the ECL at Sta. 255+61.0. Eq. Sta. 191+50.6 = Sta. 191+54.5. Eq. Sta. 204+65.9 = Sta. 199+96.0

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-255, on file in the office of the Clerk.
CHAPTER 145

DANGEROUS BUILDINGS

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

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

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

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

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

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

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

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner’s Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

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

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

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

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

† EDITOR’S NOTE: Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.
CHAPTER 146
MANUFACTURED AND MOBILE HOMES

146.01 Definitions. For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor
or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)
CHAPTER 147
WATER WELL PROTECTION

147.01 DESCRIPTION. For the purpose of carrying out the provisions of this chapter, the following described area shall be designated as the Fairfax Water System District:

All property located within the corporate boundaries of the City of Fairfax.

No building or premises shall be used and no building shall be erected except in conformity with the regulations prescribed herein for the district in which it is located.

147.02 PROHIBITED USES. The following uses within designated distances of the location of the well site shall be deemed to constitute a nuisance and shall not be permitted in the Fairfax Water System District. Furthermore, no structure or facility of the following enumerated types shall be located within the distances hereinafter set forth from the public deep well, and during the life of the aforesaid public deep well, no potential sources of contamination shall be permitted within the radius of said well to be constructed as hereinafter set out:

1. Well house floor drains — 5 feet;
2. Water treatment plant wastes — 50 feet;
3. Sanitary and industrial discharges — 400 feet;
4. Floor drains from well house to surface:
   A. None within 5 feet;
   B. 5 to 10 feet — water main materials enclosed in concrete permitted;
   C. 10 to 25 feet — must be water main material;
   D. 25 to 75 feet — must be watertight sewer pipe;
   E. Greater than 75 feet for any unknown pipe material;
5. Floor drains from well house to sewers, water plant wastes, storm or sanitary sewers or drains:
   A. None permitted within 25 feet;
   B. 25 to 75 feet, must be water main material;
C. 75 to 200 feet, must be watertight sewer pipe;
D. Greater than 200 feet for any unknown pipe material;
6. Force mains:
   A. None permitted within 75 feet;
   B. 75 to 400 feet, must be water main materials;
7. Land application of solid waste — 100 feet;
8. Irrigation of wastewater — 100 feet;
9. Concrete vaults and septic tanks — 100 feet;
10. Mechanical wastewater treatment plants — 200 feet;
11. Cesspools and earth pit privies — 200 feet;
12. Soil absorption fields — 200 feet;
13. Lagoons — 400 feet;
14. Chemicals:
   A. Application to ground surface — 100 feet;
   B. Above ground storage — 100 feet;
   C. On or underground storage — 200 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 100 feet;
17. Animal wastes:
   A. Land application of solids — 100 feet;
   B. Land application of liquid or slurry — 100 feet;
   C. Storage tank — 100 feet;
   D. Solids stockpile — 200 feet;
   E. Storage basin or lagoon — 400 feet;
18. Earthen silage storage trench or pit — 100 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 50 feet;
22. Cemeteries — 200 feet;
23. Private wells — 200 feet;
24. Solid waste disposal sites — 1,000 feet.
147.03 PENALTY. Any person violating any provision of this chapter shall be in violation of this Code of Ordinances. Each day any of the above described nuisances exists constitutes a distinct and separate violation. Violations may also be corrected by bringing an action in District Court asking for an injunction to abate any violation, to prevent the occupancy of any building, structure or land, or to prevent any illegal act, conduct, business or use.
[The next page is 725]
CHAPTER 150

BUILDING NUMBERING

150.01 Definitions. For use in this chapter, the following terms are defined:

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 Owner Requirements. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
   (Code of Iowa, Sec. 364.12[3d])

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
   (Code of Iowa, Sec. 364.12[3d])

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
   (Code of Iowa, Sec. 364.12[3h])

150.03 Building Numbering Map. The Clerk shall be responsible for preparing and maintaining a building numbering map.

150.04 Assignment of Numbers. Even numbers shall be assigned to the east side of all streets running north and south, and odd numbers to the west side thereof; even numbers shall be assigned to the north side of all streets running east and west, and odd numbers to the south side thereof. All building
numbers shall be assigned by the Building Department in accordance with the provisions of this chapter.

(Ord. 44 – Oct. 17 Supp.)

150.05 BASE LINES. The base line for the numbering of buildings or streets running north and south shall be the North Line of the Southwest Quarter and the Southeast Quarter of Section 9, and the North Line of the Southwest Quarter and the Southeast Quarter of Section 10, all in Township 82 North, Range 8 West of the Principal Meridian in the City of Fairfax, Linn County, Iowa.

The base line for the numbering of buildings or streets running east and west shall be the West Line of the South half of the Northeast Quarter of Section 4, the West Line of the Southeast Quarter of Section 4, the West Line of the Northeast Quarter and the Southeast Quarter of Section 9, and the West Line of the Northeast Quarter and the Southeast Quarter of Section 16, all in Township 82 North, Range 8 West of the Principal Meridian in the City of Fairfax, Linn County, Iowa.

(Ord. 44 – Oct. 17 Supp.)

150.06 METHOD OF NUMBERING STREETS. Commencing at the base line, the first block shall be known as the one hundred block, and subsequent blocks or a distance equal thereto shall be known consecutively in the hundreds. The first number shall be 100 on one side of the street, as herein provided, and the first number on the other side of the street shall be 101, and said numbers shall increase consecutively as herein provided to the end of the block.

1. Block Sequence. The numbering shall start anew in each succeeding block, or an equal distance thereto, and in each instance, the first number shall be one hundred greater than the first numbers on the preceding block.

2. Half Numbers. Half numbers shall be assigned to all upstairs or basement entrances.

150.07 UNITS OF NUMBERING. The unit of numbering shall be twenty (20) feet on all streets, but in the event there shall be any conflict or impossibility of complying with this section, the Clerk shall resolve the same and determine the numbers to be assigned.

150.08 LONG BLOCKS OR OTHER CONFLICT. Whenever a conflict might arise due to long blocks or other causes, the Clerk shall resolve the same and determine the numbers to be assigned to any particular building or buildings.

150.09 TIME OF NUMBERING. The owner or agent of all buildings or houses on which the proper numbers do not appear shall put the proper number
up as herein provided, and all new buildings hereafter erected shall be numbered with the proper numbers within ten (10) days after completion, and all numbers shall be maintained in good condition.

150.10 DEFACEMENT OR DESTRUCTION. It is unlawful to destroy or deface any building numbers in whole or in part.
CHAPTER 151

TREES

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

151.02Planting Restrictions. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

4. Permit to Plant, Treat or Remove Trees. No person shall plant, move, spray, fertilize, brace, trim, cut or otherwise disturb any tree or shrub in any street, park, or public place without first obtaining a written permit from the City Building Inspector. The City Building Inspector shall issue the permit if in his or her judgment the desired work is necessary, and the proposed method and workmanship thereof are of a satisfactory nature. Such work shall be done under the supervision of the City Building Inspector. A permit is not required for the trimming or maintaining of shrubbery growing on any street, park, or public place if such shrubbery does not constitute a public nuisance. Every permit shall describe the work to be done, the species, sizes and locations of trees or
shrubs concerned, and the date of expiration. Any permit may be declared void if its terms are violated.

5. Fastening Materials to Trees. No person shall place or maintain upon any street, park or public place any material which will impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein, except by permission of the City Building Inspector, or when such materials are designed for the construction of sidewalks, paving, gutters or other public improvements, and have been placed under a permit granted by the City.

6. Damaging Trees. No person shall break, deface, injure or destroy any tree or shrub in any street, park or public place. No person shall knowingly permit any leak to exist in any gas pipe or main within the root zone of any such tree or shrub. No person shall knowingly permit any wire designed to carry electronic current to come in contact with any such tree or shrub unless protected by approved methods. Whenever the City Building Inspector determines it to be necessary, in order to prune or remove any tree or shrub to protect, move or cut off the electricity from any service wire, he or she shall serve written notice on the owner of such wire, to protect such wire and the owner shall comply with such order within twenty four (24) hours after service of the notice.

7. Street Tree Planting Guide. All trees planted in a street, park or public place shall be of a species that is clean, strong and long-lived. The purpose of this guide is to promote improved and healthy tree growth conditions while avoiding site obstruction and conflicts with utilities.

A. The following are recommended trees species:

(1) Trees (over 40') Planted on 40' Spacing:

(a) Ash - White, Green, or Purple
(b) Ginkgo - Columnar varieties particularly desirable
(c) Hackberry
(d) Honey locust - Skyline
(e) Linden - Silver, Redmond
(f) Maple - Black, Schedler Norway, (Norway, Red and Sugar - Columnar varieties particularly desirable)
(g) Oak - White, Northern Red, Swamp White, Bur
(h) Tulip Tree
(i) Sycamore

(2) Trees (12' - 30') Planted on 20' Spacing:
(a) Amur/Hedge Maple
(b) Crabapple varieties - Columnar varieties particularly desirable
(c) Eastern Redbud
(d) Hop Hornbeam
(e) Littleleaf Linden
(f) Ornamental Pear
(g) Sargent Cherry
(h) Serviceberry

B. Short lived tree species, trees with weak wood, trees which create a site obstruction or have excessive mess are prohibited. The following is a non-exhaustive list of prohibited tree species:

- Boxelder
- Catalpa
- Cottonwood
- Evergreens
- Fruit and Nut bearing over one (1) inch
- Mulberry
- Pin Oak
- Siberian Elm
- Silver Maple
- Tree of Heaven
- Willow
- Magnolia (site objection)

C. Tree Spacing. All trees planted in a street, park or public place shall be in accordance with the following spacing requirements.

1. 40' between large trees and 20' between small trees
2. 20' from all intersection
3. 10' from all driveways and alleys
4. 8' minimum height
5. 4' minimum areas between street and sidewalk

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.
151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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### CHAPTER 152

**GRADING, EROSION AND SEDIMENT CONTROL**

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**152.01 PURPOSE.** Soil erosion contributes to the impairment of drainage ways, increases road and storm sewer maintenance costs, destruction and obstruction to traveled roadways, creating a potential hazard for vehicular traffic, contamination and degradation of land surfaces and streams, flooding and dusty conditions. Requirements shall be established by this chapter in an effort to control erosion and sediment transport. Unless exempted in this chapter, a Grading, Erosion and Sediment Control Plan will be required prior to any proposed land disturbing activity. This chapter also establishes requirements for grading, filling, fill material, and obtaining fill permits. These requirements include use of suitable fill material, stable slope construction, proper site drainage, and usability of public and private easements.

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

1. “Applicant” means any individual, firm, corporation, association or partnership, or proprietor of land to undergo land disturbing activities.

2. “Certified professional erosion & sediment control specialist” means 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.

3. “City Engineer” means the official holding the position established by Section 5.09 of the Fairfax Development Code.

4. “Civil engineer” means a professional engineer licensed in the State of Iowa to practice civil engineering.

5. “Clearing and grubbing” means the removal of unwanted growth, in the form of trees, wood, shrubs, brush, or stumps on a site.

6. “Design professional” means a civil engineer, landscape architect, or certified professional erosion and sediment control specialist.

8. “Development” means the alternation of land from its existing state.

9. “Erosion” means the wearing away of the land surface by running water, wind, ice, gravity, or other geological, natural, or manmade agents.

10. “Filling” means placing materials to effectively change the site contours. This includes placing materials from the site itself or from off site.

11. “Fill material” means soil, stone, rock, brick, Portland cement or asphaltic concrete, or sand.

12. “Fill permit” means a permit issued by the City to engage in filling on a site.

13. “Fill site” means land upon which fill materials are placed and which placement does not require a sanitary disposal permit issued by the State of Iowa.

14. “Grading, erosion & sediment control plan” means a plan for property upon which land disturbing activities are proposed. The plan will indicate materials, construction phasing, grading and drainage, and erosion and sediment control best management practices according to the Design Standards Manual.

15. “Land disturbing activity” means clearing, grading, excavating, filling or other construction activities on a site.

16. “Landscape architect” means a professional landscape architect, registered in the State of Iowa to practice landscape architecture.

17. “Sediment” means solid material, both natural and manmade, 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, wind, gravity or ice.

18. “Site” means property where land disturbing activities take place.

152.03 FILL PERMIT REQUIRED.

1. Except as provided in subsections 6, 7 and 8 of this section, no person shall fill upon any site without obtaining a valid fill permit.

2. All fill permits shall be issued by the City of Fairfax Building Inspector upon approval of a completed application for fill permit on a form provided by the City. The application shall be signed by the title holders of all sites to be filled. The application fee for fill permits and renewals shall be established by resolution of the Council.

3. A fill permit application shall include the following:
   A. A completed application for fill permit on a form provided by the City Building Department.
   B. A dimensioned drawing including the following:
      (1) Property address or legal description.
      (2) Property lines and any existing easements of record.
      (3) Limits of fill area.
      (4) Existing and proposed ground elevations.
      (5) Other information as required by the City Building Inspector or City Engineer.
   C. The application shall include a grading, erosion and sediment control plan as set forth in Section 152.05 of this chapter.

4. Fill Permits shall be valid for a period of one year from the date of issuance and may be renewed as provided for herein. A renewal application must include those items required in Section 152.03(3), and the following:
   A. Payment of the Renewal Fee.
   B. Current dimensioned drawing of the original plan was modified.

5. The Building Department shall revoke a fill permit or decline renewal if unacceptable materials are being deposited at the site, or if the applicant has failed to comply with any of the regulations set forth in this chapter, or any requirement of law, statute or regulation.

6. Filling or construction regulations within flood plain limits as established by the Federal Emergency Management Agency (FEMA) and in Chapter 160 of this Code of Ordinances are not regulated by this
chapter. Approval and certification must be received through the City Building Department prior to any filling or construction.

7. For work that is specifically covered by a City demolition permit, building permit, NPDES permit, or approved plan of improvements containing a grading, erosion and sediment control plan, a fill permit is not required. However, site filling and grading done pursuant to these approved permits and plans shall meet the requirements of this chapter.

8. 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 twenty-five cubic yards in a twelve-month time period.
   E. Disturbed area of less than ¼ acre.
   F. Public improvements work within public right-of-way and easements.

152.04 FILLING REQUIREMENTS.

1. Clearing and grubbing shall be performed according to Part 3 of Section 01400 of the Standard Specifications, except as provided in this chapter.

2. Fill material shall be placed according to the grading erosion and sediment control plan 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 2 and Part 3 of Section 02900 of the Cedar Rapids Metropolitan Area Standard Specifications for Public Improvements. This shall include providing a minimum of four (4) inches of top soil over the entire site. The four inches of top soil shall be placed in all areas where buildings and other permanent hard surfacing is not placed. All top soil depths shall be randomly sampled by the Fairfax Building Department for verification prior to any seeding or sodding. Methods, number of samples, and sample locations shall be at the discretion of the inspector.

(Ord. 47 – Oct. 17 Supp.)
5. Finish slopes shall not exceed a 3:1 ratio on any slope facing and terminating within 15 feet of a property line.

6. Unacceptable Fill Materials:
   A. 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 eighteen (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.
   B. 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 onsite from offsite for use as fill.

152.05 GRADING, EROSION & SEDIMENT CONTROL PLAN REQUIRED. Except as provided in Section 152.03, no person shall engage in land disturbing activities within the City unless a grading, erosion and sediment control plan has been approved by the City Engineer. Sites with land disturbance shall fall into one of two categories as determined by the City Engineer as set forth herein below:

1. Sites with a disturbed area less than one acre (43,560 square feet) shall not require submittal of a grading, erosion and sediment control plan. However, the owners of a site are required to plan and implement erosion control measures as described in the brochure Erosion Control for Small Site Development. The City Engineering Department and Building Department shall make this brochure available. The City Engineer may require an acceptable grading, erosion and sediment control plan 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:
   A. Site contains slopes of 9% of greater.
   B. Site is adjacent to a water body or open drainage channel.
   C. Site has been identified as having severe erosion or as creating a significant impact on adjacent properties, water bodies, or open drainage channels due to erosion and sediment deposition.
2. Sites with a disturbed area greater than or equal to one acre (43,560 square feet) shall require an acceptable grading, erosion and sediment control plan meeting the requirements of this chapter, certified by a design professional, and approved by the City Engineer.

All grading, erosion and sediment control plans must be reviewed and approved by the City Engineer prior to the commencement of land disturbing activities. All grading, erosion and sediment control plans 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 the City’s engineering specifications. The drainage report, at a minimum, shall demonstrate that the design of proposed grading, erosion, and sediment control, if constructed per plan, is not expected to adversely impact adjacent properties. The City’s acceptance of a grading, erosion and sediment control plan does not constitute approval of Design Standards Manual exceptions unless specifically requested and approved by the City Engineer.

152.06 GRADING, EROSION AND SEDIMENT CONTROL PLAN REVIEW AND APPROVAL PROCEDURE. The applicant shall submit a grading, erosion and sediment control plan for the site, meeting the requirements established in the Design Standards Manual, to the City Engineer for review and approval, as follows:

1. The City Engineer shall review the submittal for compliance with the requirements of a grading, erosion and sediment control plan as set forth in the Design Standards Manual. Following the review, the City Engineer may return comments to the design professional.

2. 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.

3. The City Engineer or Building Inspector may require supporting documentation as needed to demonstrate conformance with these requirements. Issuance of a fill permit may be delayed pending receipt of the documentation.

4. If the submittal is complete, and meets the requirements as set forth herein, the City Engineer shall approve the plan.

152.07 LAND DISTURBING ACTIVITIES REQUIREMENTS. Land disturbing activities shall be conducted in compliance with the approved grading, erosion and sediment control plan for the site. If a site is not in compliance with these regulations, the City Engineer or Building Inspector may issue a notice to comply to the property owner. The notice shall describe the problem and specify a date by which compliance must be achieved.
152.08 POWERS OF AUTHORITY FOR INSPECTION. The City Engineer or Building Inspector 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.

152.09 FEES ESTABLISHED. The Council may establish fees by resolution for the review and processing of documents necessitated by this chapter. When such fees are established a submittal shall not be considered unless the appropriate fee has been submitted to the City.

152.10 PENALTIES. Any person who engages in land disturbing activities upon any site within the area of jurisdiction of this chapter before meeting the requirements of this chapter or who violates any other provisions of this chapter shall be subject to one or more of the following:

1. The provisions of Section 1.14 of this Code of Ordinances.

2. The actual cost to the City for removing sediment from public facilities as determined by the City Engineer.

3. No foundation permits or building permits for the site shall be issued until the violations are corrected. Current foundation permits or building permits for the site may be rescinded.

4. No permanent certificates of occupancy shall be issued for property until the violations are corrected. An existing certificate of occupancy may be rescinded.

5. Nothing contained herein shall limit the right of the City to any other remedies available to the City for the enforcement of this chapter, including the use of municipal infractions. Enforcement of this section shall be the responsibility of the City Engineer and the Building Inspector or their designees.

152.11 RELATIONSHIP TO OTHER REQUIREMENTS.

1. Relationship to Other Laws. Nothing in this chapter shall be construed as exempting any person from other requirements of the City or State and Federal laws and regulations. To the extent the requirements of this chapter differ from other applicable City, State or Federal requirements, the more restrictive requirements shall apply.

2. Minimum Requirements. The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, convenience, prosperity and general welfare.
3. Insurance Requirements. Applicants shall comply with the contractor insurance requirements contained in Chapter 123 of this Code of Ordinances.

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CHAPTER 153
BUILDING CODE

153.01 INTERNATIONAL BUILDING CODE. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Building Code of the City that certain Building Code known as the International Building Code, 2015 Edition, and International Residential Code, 2015 Edition, including International Residential Code, Appendix F Passive Radon Gas Control Methods, and National Electric Code, 2014 Edition. This Chapter shall also adopt referenced Codes listed in Sections 101.4.1 through 101.4.7 as prepared and edited by the International Code Council, Inc., and the provisions of said Building Code shall be controlling in the construction of buildings and other structures and in all matters covered by said Building Code within the corporate limits of the City and shall be known as the Fairfax Building Code.

153.02 AMENDMENTS TO THE BUILDING CODE. Certain sections and portions of sections of the International Building Code and International Residential Code are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

1. Work Exempt from Permit. The Fairfax Building Code is hereby amended by repealing Section R105.2 Building: Exceptions #1, #2 and #5 of the International Residential Building Code and by replacing said Exceptions with new Exceptions as follows:

1. Structures, including sheds, of less than 120 square feet, are exempt, but their location on the property must abide by all setback requirements of an accessory structure. These setbacks will be inspected and verified by the Building Official.

2. Siding replacement.

5. The following repairs will be considered required maintenance in a Group R-3 structure and will not require a building permit. The replacement of windows and/or doors when replaced with windows and doors of similar size, style and material, and no structural change is required for framing of the rough opening for said windows and/or door.

11. Slab patios provided they are not used for parking, have no footings or foundation, and are neither enclosed nor to be enclosed. Slab must meet all of these conditions.

The Fairfax Building Code is hereby amended by deleting Items #1, #2, and #6 from Section 105.2 of the International Building Code.
2. Board of Appeals. The Fairfax Building Code is hereby amended by adding a new Section 112.1 & 112.5 from the International Residential Code and Section 113.1 & 113.4 from the International Building Code, as follows:

113.1 & R112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of adjustment. This Board of Adjustment will be appointed by the City Council, and will consist of five (5) residents of Fairfax. They will serve a five (5) year term, with no compensation. The building official shall be an ex officio member of said board but shall not have a vote on any matter before the board. The Board shall adopt rules of procedure for conducting its business.

113.4 & R112.5 Failure to Act. In the case an appellant or applicant does not exercise their rights, act, begin construction or operation or occupancy, as the case may be, in accordance with any appeal variance or permit granted by the Board within one year after the matter has been acted upon by the board, such variance or permit shall be null and void.

3. Expiration. The Fairfax Building Code is hereby amended by adding a new Section 105.5 to the International Building Code and the International Residential Code, as follows:

105.5 Expiration. Every building permit issued under the provisions of the Code shall expire twelve months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit is renewed by the owner or their agent and by payment of the renewal fee as set forth by resolution of the City Council, and provided no changes have been made in plans or location. No permit shall be renewed more than once.

4. Schedule of Permit Fees. The Fairfax Building Code is hereby amended by repealing Section 109.2 of the International Building Code, and Section 108.2 of the International Residential Code, and by replacing said sections with a new section as follows:

R108.2 & 109.2 Schedule of Permit Fees. On buildings, structures or alterations requiring a permit, a fee for each permit shall be paid to the City of Fairfax as set forth in the Schedule of Permit Fees as adopted by resolution of the City Council of Fairfax.

5. Building Permit Valuations. The Fairfax Building Code is hereby amended by adding a new Section 109.3 & 109.7 to the International Building Code and Section 108.3 & 108.7 to the International Residential Code as follows:

R108.3 & 109.3 Building Permit Valuations. Valuation for the purpose of establishing permit fees for new construction, additions or alterations to
existing buildings shall be determined by the Building Official from the
schedule of building permit fees as adopted by resolution of the City of Fairfax
City Council.

R108.7 & 109.7 Re-inspections. A re-inspection fee may be assessed for each
inspection or re-inspection when such portion of work for which inspection is
called is not complete or when corrections called for are not made. This section
is not to be interpreted as requiring re-inspection fees the first time a job is
rejected for failure to comply with requirements of this code, but as controlling
the practice of calling for inspections before the job is ready for such
inspection or re-inspection. Re-inspection fees may be assessed when the
inspection card is not posted or otherwise available on the work site, the
property and building address are not properly posted, for failure to provide
access on the date and time for which inspection is requested, or for deviating
from plans requiring the approval of the building official.

is hereby amended by repealing Section 109.4 of the International Building
Code and Section R108.6 of the International Residential Code and replacing
said section as follows:

R108.6 & 109.4 Work Commencing Before Permit Issuance. Whenever any work for which a permit is required by this code has
been commenced without first obtaining said permit, an investigation
fee in addition to the permit fee shall be collected whether or not a
permit is then or subsequently issued. The investigation fee shall be
equal to the amount of the permit fee required by the Schedule of
Permit Fees for the entire project commenced and shall not be limited
to the amount of the work completed prior to being informed of the
permit requirements. The payment of the investigation fee shall not
exempt any person from compliance with all other provisions of this
code nor from any penalty prescribed by law.

7. Certificate. The Fairfax Building Code is hereby amended by repealing
Section 110.3 number 3 of the International Residential Code, and 111.2
number 3 of the International Building Code and leaving said section number
blank.

8. Design Criteria. The Fairfax Building Code is hereby amended by
inserting climate and geographical design criteria into Table R301.2(1) of the
International Residential Code, as follows:

<table>
<thead>
<tr>
<th>GROUND SNOW LOAD</th>
<th>WIND DESIGN</th>
<th>SEISMIC DESIGN CATEGORY</th>
<th>SUBJECT TO DAMAGE FROM</th>
<th>WINTER DESIGN TEMP</th>
<th>ICE BARRIER UNDERLAYMENT REQUIRED</th>
<th>FLOOD HAZARDS</th>
<th>AIR FREEZING INDEX</th>
<th>MEAN ANNUAL TEMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speed (MPH)</td>
<td>Topographic Effects</td>
<td>Special Wind Region</td>
<td>Windborne Debris Zone</td>
<td>Weathering</td>
<td>Frost Line Depth</td>
<td>Termites</td>
<td>NFIP ADOPTION</td>
<td>FIRM MAPS</td>
</tr>
<tr>
<td>30 PSF</td>
<td>115</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>A</td>
<td>Severe</td>
<td>42°</td>
<td>Moderate-Heavy</td>
</tr>
</tbody>
</table>
International Building Code Section 1608.2 Ground Snow Load to be used in determining the design snow loads for roofs shall be 30 pounds per square foot.

9. Opening Protection. The Fairfax Building Code is hereby amended by repealing Section R302.5.1 of the International Residential Code and by replacing said section as follows:

R302.5.1 Opening Protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb-core steel doors not less than 1 3/8 inches thick, or 20-minute fire-rated doors.


11. Risers. The Fairfax Building Code is hereby amended by adding Exception number 3 to Section R311.7.5.1 of the International Residential Code as follows:

Exception 3. To facilitate the removal of snow and ice, the opening between adjacent treads is limited to 7 ¾ inches on exterior stairs exposed to precipitation.

12. Window Openings. The Fairfax Building Code is hereby amended by repealing Section 1015.8 of the International Building Code and Section R312.2.1 of the International Residential Code and leaving said sections blank.

13. Automatic Fire Sprinkler Systems. The Fairfax Building Code is hereby amended by repealing Section R313 of the International Residential Code and by replacing said section with a new section as follows:

Section R313

Automatic Fire Sprinkler Systems

R313.1 Townhouse Automatic Fire Sprinkler Systems. An automatic residential fire sprinkler system shall be installed throughout all attached townhouse dwelling units when any of the following conditions exist:

1. The townhouses are constructed in a group of more than four attached units.

2. Any individual townhouse dwelling unit of a structure with four or fewer attached townhouses has a floor area greater than 4,000 square feet on any one story or greater than 8,000 square feet of total floor area for all stories, excluding non-habitable areas separated from the rest of the building by a minimum of one-hour fire-resistant construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.
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Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.1.1 Design and Installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904.

R313.2 One and Two-family Dwellings Automatic Fire Sprinkler Systems. An automatic residential fire sprinkler system shall be installed in one and two-family dwellings when the following conditions exist:

1. The one or two-family dwelling has a floor area greater than 4,000 square feet on any one story or greater than 8,000 square feet of total floor area for all stories, excluding non-habitable areas separated from the rest of the building by a minimum of one-hour fire-resistant construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing one and two-family dwellings that do not have an automatic residential fire sprinkler system installed.

R313.2.1 Design and Installation. Automatic residential fire sprinkler systems for one and two-family dwellings shall be designed and installed in accordance with Section P2904.

14. Smoke Alarms. The Fairfax Building Code is hereby amended by repealing Section R314.3 number 4 and Section R314.3.1 of the International Residential Code and leaving said sections blank.

15. Swimming Pools and Spas. The Fairfax Building Code is hereby amended by repealing Section 3109 of the International Building Code and by replacing said section with a new Section 3109 as follows:

SECTION 3109
SWIMMING POOLS AND SPAS


17. Swimming Pool Drainage Systems. The Fairfax Building Code is hereby amended by adding a new Section R326.1.1 to the International Residential Code as follow:
R326.1.1 Swimming Pool Drainage Discharge. Swimming pools shall be designed and constructed so as to provide for appropriate drainage of water resulting from overfilling, draining, and maintenance operations. The site plan for proposed swimming pool shall indicate where pool drainage is to be directed in such a manner that:

1. Swimming pool drainage water shall be directed away from any structure foundation.
2. Ponding of surface water shall be avoided.
3. Swimming pool drainage water shall be de-chlorinated before being directed to available drainage tile or storm sewer systems. If the swimming pool water is not de-chlorinated, it must be directed to the sanitary sewer at controlled flow rate approved by the City. Please Note: Discharge of chlorinated water to the storm water system would be a violation of the EPA Storm Water Discharge Regulations and could result in a Municipal Infraction for an illicit discharge.
4. Surface water shall not be discharged to any adjacent private property except upon drainage easements or established waterways shall not be altered so that upstream water flow is adversely affected.
5. Water flow shall be controlled to avoid excessive volume or velocity which could cause soil erosion or create other possible hazards.
6. Final graded lots shall comply with the grading plan and any terms of the memorandum of agreement for the approved subdivision.

18. Locks and Latches. The Fairfax Building Code is hereby amended by repealing Section 1010.1.9.3 Exception number 2 of the International Building Code, and leaving said section blank.

19. Sewer Depth. The Fairfax Building Code is hereby amended by repealing Section P2603.5.1 of the International Residential Code and leaving said section blank.


21. Backwater Valves (exception). The Fairfax Building Code is hereby amended by deleting the exception and adding a new exception to section P3008.1 of the International Residential Code as follows:

Exception: The requirements of this Section shall apply only at locations determined necessary by the City Engineer based on local conditions.
22. Subsurface Landscape Irrigation Systems. The Fairfax Building Code is hereby amended by deleting Section P3009.1 from the International Residential Code and inserting in lieu thereof the following:

P3009.1 Scope. The provisions of this section shall be optional and for information only of materials, design, construction and installation of subsurface landscape irrigation systems connected to non-potable water from on-site water reuse systems.

23. Frost Closure. The Fairfax Building Code is hereby amended by deleting Section P3103.2 from the International Residential Code and inserting in lieu thereof the following:

P3103.2 Frost Closure. Where the 97.5% value for outside design temperature is 0°F or less, every vent extension through a roof or wall shall be not less than 3 inches in diameter. Any increase in the size of the vent shall be made inside the structure at a point not less than 1 foot below the roof or inside the wall.

24. Frost Protection (slab on grade). The Fairfax Building Code is hereby amended by deleting exception number 2 in section R403.1.4.1 of the International Residential code and leaving exception number 2 blank.

25. Foundation Drainage Systems. The Fairfax Building Code is hereby amended by repealing Section 1805.4.3 of the International Building Code and by replacing said section with a new Section 1805.4.3 and adding a new Section R401.3.1 to the International Residential Code as follows:

R401.3.1 & 1805.4.3 Drainage Discharges. The floor base and foundation perimeter drain shall discharge by gravity or mechanical means into an approved drainage system that complies with the following:

1. Sump pit located inside the building. Exception: Sump pit may be omitted if drainage tile can be designed with natural fall and drain on same property if approved by the Building Official.

2. For each sump pit installed with a pump, a discharge pipe shall be provided running continuous from a point directly outside the sump pit and must run to the City storm sewer. If unavailable, another discharge location must be verified with Building Official.

3. A sump pump will be considered to be necessary if water inside the sump pit will not recede to a level 4 inches or more below the lowest basement floor surface by gravity or absorption into the earth within a reasonable period of time, or judgement of Building Official.

26. Post Frame Buildings. The Fairfax Building Code is hereby amended by adding Section 107.6 to the International Building Code and Section R106.6 to the International Residential Code as follows:
R106.6 & 107.6 Post Frame Buildings. All pole frame buildings shall be designed and constructed by the following guidelines:

R106.6.1 & 107.6.1 Plans. Plans shall be drawn to scale of not less than ¼ inch per foot and include a floor plan with dimensions, pole locations and spacing, footing sizes, door sizes and locations, section drawings showing footings, poles, sidewall girts, roof purlins, headers, siding, roofing and details. Elevation views are required for all sides of a building.

R106.6.2 & 107.6.2 Engineering. Plans shall be certified by a licensed, professional engineer and shall bear the engineer’s seal and signature. The engineer’s certified block shall specify the pages or sheets covered by the seal.

Exception. Pole buildings satisfying all of the following conditions are exempt from the engineering certification of plans required in this section:

1. Floor area of 1,000 square feet or less.
2. Eave height of 12 feet or less.
3. Pole spacing of 8 feet or less.

R106.6.3 & 107.6.3 Building Design Criteria. The following shall appear on the engineer certified plans: Building design in accordance with 2015 International Building Code; 30 PSF ground snow load; 115 MPH Wind Design Speed; Exposure C (generally open terrain with scattered obstructions); 2000 PSF assumed soil bearing (unless a soils report shows otherwise).

R106.6.4 & 107.6.4 Trusses. Submit truss design drawings certified by a licensed, professional engineer. Drawings shall indicate that the design and connectors are in accordance with the 2015 International Building Code and indicate the applicable design criteria from Section 107.6.3 or R106.6.3 above.

27. Top Soil Requirements. The Fairfax Building Code is hereby amended by adding Sections 1804.8 to the International Building Code and R405.3 International Residential Building Code.

1804.8 & R405.3 Top Soil Requirements

Finish grading shall be according to Part 2 and Part 3 of Section 02900 of the Cedar Rapids Metropolitan Area Standard Specifications for Public Improvements. This shall include providing a minimum of four (4) inches of top soil over the entire site. The four inches of top soil shall be placed in all areas where buildings and other permanent hard surfacing is not placed. All top soil depths shall be randomly sampled by the Fairfax Building Department for verification prior to any seeding or sodding. Methods, number of samples and sample locations shall be at the discretion of the inspector.

(Ord. 47 – Oct. 712 Supp.)
28. Residential Exterior Deck Footings. The Fairfax Building Code is hereby amended by adding Section R507.8.2 Deck Footing Minimums to the International Residential Building Code as follows:

Residential Exterior Deck Footings Minimum Diameter: twenty four (24) inches continuous with frost protection to forty two (42) inches below grade.

29. Commercial Condo. The Fairfax Building Code is hereby amended by adding the definition for a Commercial Condo to Section 202 Definitions to the International Building Code 2015 and Section R202 Definitions International Residential Building Code 2015 as follows:

Defined: Commercial Condo – A commercial building or complex of commercial buildings containing a number of individually owned units sharing the same legal parcel.


427.1 Minimum square footage per unit to be 800 square feet.
427.2 Each unit shall require an occupancy permit obtained from the City of Fairfax.
427.3 Each unit shall have sanitary sewer, potable water, electricity and gas available within each unit footprint for future connection.
427.4 All occupied units, or clustered multiple units with a single owner, shall have a minimum of one unisex restroom, including a toilet and a lavatory.
427.5 No exterior storage shall be permitted except dumpsters, which shall be enclosed.
427.6 No retail sales or residential occupancy usage shall be allowed as defined by Permitted Principal Uses for each zoning district within the Fairfax Zoning Ordinances and occupancy usage as defined within the Fairfax Building Code, Chapter 3 Use and Occupancy Classification.
427.7 Minimum parking shall be 3 standard stalls per unit with a minimum of 2 ADA accessible stalls per parcel. All parking stalls shall be to SUDAS standards in all other regards. No parking will be considered or allowed in front of overhead doors.
427.8 Fire protection systems shall be required based on usage, and not necessarily required for the entire building.
427.9 Each parcel shall be controlled by an association, and said association shall be the “customer” from a City utility billing aspect. The City shall provide one meter and one shut off per parcel, the association shall be responsible for payment and any collections from any/all building owners.
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427.10 All association agreements shall be submitted and approved by the City of Fairfax prior to any temporary or final occupancy permits being issued.

427.11 Annual City fire and safety inspections shall be required and written into the association agreement.

(Subsections 28 and 29 – Ord. 2 – Dec. 18 Supp.)

30. Primary Means of Egress. The Fairfax Building Code is hereby amended by adding additional requirement to Section R311 Means of Egress to the International Residential Building Code as follows: R311.2 Egress Door. Not less than one egress door shall be provided for each dwelling unit. The egress door shall be side-hinge, and shall provide a clear width of not less than 36 inches (914 mm) where measured between the face of the door and the stop, with the door open 90 degrees (1.57 rad). The clear height of the door opening shall be not less than 78 inches (1981 mm) in height measured from the top of the threshold to the bottom of the stop. Others shall not be required to comply with these minimum dimensions. Egress doors shall be readily openable from inside the dwelling without the use of a key or special knowledge or effort.

R311.3 Floors and Landings at Exterior Doors. There shall be a landing or floor on each side of each exterior door. The width of each landing shall be not less than the door served. Every landing shall have a dimension of not less than 36 inches (914 mm) measured in the direction of travel. The slope at exterior landings shall not exceed ¼ unit vertical in 12 units horizontal (2 percent). The landing on the exterior side of the primary means of egress door shall be part of the foundation including a frost protected footing and foundation walls. This landing shall measure no less than 48 inches in any direction.

Exception: remodels and addition of less than 50% of homes value or no foundation work is being proposed.


(Subsection 30 – Ord. 21 – Dec. 19 Supp.)

153.03 AVAILABILITY OF THE BUILDING REGULATIONS. An official copy of the Fairfax Building Code, including a certificate by the City Clerk as to their adoption and the effective date thereof, shall be maintained on file in the office of the Building Official at City Hall and at the Fairfax Public Library to be made available for public inspection and copying, but not at city expense.

153.04 EFFECTIVE DATE. The effective date of this Chapter is October 24, 2016.

(Ch. 153 - Ord. 40 – Oct. 17 Supp.)

[The next page is 781]
CHAPTER 154

INTERNATIONAL MECHANICAL CODE

154.01 INTERNATIONAL MECHANICAL CODE. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Mechanical Code of the City that certain Mechanical Code known as the International Mechanical Code, 2105 Edition, as prepared and edited by the International Code Council, Inc., and the provisions of said Mechanical Code shall be controlling in the construction of buildings and other structures and in all matters covered by said Mechanical Code within the corporate limits of the City and shall be known as part of the Fairfax Building Code.

154.02 AMENDMENTS TO THE MECHANICAL CODE. Certain sections and portions of sections of the International Mechanical Code are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

1. Fee Schedule. The Fairfax Mechanical Code is hereby amended by repealing Section 106.5.2 of the International Mechanical Code, and replacing said sections with a new section as follows:

106.5.2 Fee Schedule. On buildings, structures or alterations requiring a mechanical permit, a fee for each permit shall be paid to the City of Fairfax as set forth in the Mechanical Permit Fee Schedule as adopted by resolution by the City Council of Fairfax.

2. Board of Appeals. The Fairfax Mechanical Code is hereby amended by deleting Section 109 of the International Mechanical Code and stating that all appeals will fall under the jurisdiction of Chapter 153 of the Fairfax Building Code Board of Adjustment in its entirety.

154.03 LICENSING. The examination, qualification and licensing of heating/cooling contractors, refrigeration contractors, comprehensive mechanical contractors, heating/cooling installers and refrigeration systems installers, and the registration of the respective apprentice installers and sheet metal helpers shall be in accordance with the Plumbing and Mechanical Systems Board, under the jurisdiction of the Iowa Department of Public Health.

154.04 LICENSE NOT REQUIRED (HOMEOWNERS). An owner may do heating/cooling work in the single-family dwelling in which such owner resides without being licensed, provided that owner demonstrates capability to do such work by successfully completing a standard examination, and further provided that owner
obtains a permit and otherwise complies with the provisions of the Fairfax Building Code.

154.05 **AVAILABILITY OF THE INTERNATIONAL MECHANICAL CODE.**
An official copy of the International Mechanical Code, including a certificate by the City Clerk as to their adoption and effective date thereof, shall be maintained on file in the office of the Building Official at City Hall and at the Fairfax Public Library to be made available for public inspection and copying, but not at city expense.

154.06 **EFFECTIVE DATE.** The effective date of this chapter is October 24, 2016.

*(Ch. 154 - Ord. 41 – Oct. 17 Supp.)*

[The next page is 795]
CHAPTER 155
INTERNATIONAL PLUMBING CODE

155.01 INTERNATIONAL PLUMBING CODE. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Plumbing Code of the City that certain Plumbing Code known as the International Plumbing Code, 2105 Edition, as prepared and edited by the International Code Council, Inc., and the provisions of said Plumbing Code shall be controlling in the construction of buildings and other structures and in all matters covered by said Plumbing Code within the corporate limits of the City and shall be known as part of the Fairfax Building Code.

155.02 AMENDMENTS TO THE PLUMBING CODE. Certain sections and portions of sections of the International Plumbing Code are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

1. Fee Schedule. The Fairfax Plumbing Code is hereby amended by repealing Section 106.5.2 of the International Plumbing Code, and replacing said sections with a new section as follows:

   106.5.2 Fee Schedule. On buildings, structures or alterations requiring a plumbing permit, a fee for each permit shall be paid to the City of Fairfax as set forth in the Plumbing Permit Fee Schedule as adopted by resolution by the City Council of Fairfax.

2. Board of Appeals. The Fairfax Plumbing Code is hereby amended by deleting Section 109 of the International Plumbing Code and stating that all appeals will fall under the jurisdiction of Chapter 153 of the Fairfax Building Code Board of Adjustment in its entirety.

155.03 LICENSING. The examination, qualification and licensing of plumbing contractors, comprehensive plumbing contractors, plumbing installers, and the registration of the respective apprentice installers and helpers shall be in accordance with the Plumbing and Mechanical Systems Board, under the jurisdiction of the Iowa Department of Public Health.

155.04 LICENSE NOT REQUIRED (HOMEOWNERS). An owner may do plumbing work in the single-family dwelling in which such owner resides without being licensed, provided that owner demonstrates capability to do such work by successfully completing a standard examination, and further provided that owner obtains a permit and otherwise complies with the provisions of the Fairfax Building Code.
155.05 AVAILABILITY OF THE INTERNATIONAL PLUMBING CODE. An official copy of the International Plumbing Code, including a certificate by the City Clerk as to their adoption and effective date thereof, shall be maintained on file in the office of the Building Official at City Hall and at the Fairfax Public Library to be made available for public inspection and copying, but not at city expense.

155.06 EFFECTIVE DATE. The effective date of this chapter is October 24, 2016.

(Ch. 155 - Ord. 42 – Oct. 17 Supp.)
CHAPTER 156

NATIONAL ELECTRICAL CODE

156.01 NATIONAL ELECTRICAL CODE. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Electrical Code of the City that certain Electrical Code known as the National Electrical Code, 2014 Edition, including Annex H, as prepared and edited by the National Fire Protection Association, and the provisions of said Electrical Code shall be controlling in the installation, alteration, repair, renewal, replacement, remodeling, connection, disconnection and maintenance of all electrical equipment and in all matters covered by said Electrical Code within the corporate limits of the City and shall be known as part of the Fairfax Building Code.

156.02 AMENDMENTS TO THE ELECTRICAL CODE. Certain sections and portions of sections of the National Electric Code are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

1. Electrical Board. The Fairfax Electrical Code is hereby amended by repealing Section 80.15 of the National Electrical Code and by replacing said section as follows:

   80.15 Electrical Board. The State of Iowa, through the Iowa Department of Public Safety and the State Fire Marshall Division has created a Board, of which Fairfax is under jurisdiction. Said Board shall control all appointments, terms, compensation, quorum, duties, appeals and meetings, including records of the Board.

2. Fee Schedule. The Fairfax Electrical Code is hereby amended by adding a new Section 80.19 (E) of the National Electrical Code and by replacing said section as follows:

   80.19 Permits and Approval (E) Fees. On buildings, structures or alterations requiring a permit, a fee for each permit shall be paid to the City of Fairfax as set forth in the Schedule of Permit Fees as adopted by resolution by the City Council of Fairfax.

3. Residential Telecommunications Infrastructure Standard TIA-570-B.

   A. Installation Required. All newly constructed single and multi-family residential, business, office and commercial structures constructed after the effective date of the ordinance codified in this chapter shall be wired to the following standards:
(1) Installation of at least one RG-6 cable and two Category 5 cables from the service provider’s point of connection to a demarcation point within the building.

(2) Installation of at least one RG-6 and one Category 5 cable from the demarcation point to each of the following locations: kitchens, bedrooms, family rooms, great rooms, living rooms, dens and study rooms.

B. Installation of at least one 120-volt electrical duplex outlet within six feet of the demarcation point.

C. Installation of one Custom 7 Conductor VDC and Battery Alarm Cable or ½ inch raceway from the service provider’s point of connection to the same demarcation point within the building.

(Ord. 55 – Oct. 17 Supp.)

156.03 LICENSING. The examination, qualification and licensing of electrical contractors, comprehensive electrical contractors, electrical installers, and the registration of the respective apprentice installers and helpers shall be in accordance with the Iowa Department of Public Safety, State Fire Marshal Division and the Iowa Electrical Examining Board.

156.04 LICENSE NOT REQUIRED (HOMEOWNERS). An owner may do electrical work in the single-family dwelling in which such owner resides without being licensed, provided that owner demonstrates capability to do such work by successfully completing a standard examination, and further provided that owner obtains a permit and otherwise complies with the provisions of the Fairfax Building Code.

156.05 AVAILABILITY OF THE NATIONAL ELECTRICAL CODE. An official copy of the National Electrical Code, including a certificate by the City Clerk as to their adoption and effective date thereof, shall be maintained on file in the office of the Building Official at City Hall and at the Fairfax Public Library to be made available for public inspection and copying, but not at city expense.

156.06 EFFECTIVE DATE. The effective date of this chapter is October 24, 2016.

(Ch. 156 - Ord. 43 – Oct. 17 Supp.)

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01  STATUTORY AUTHORITY. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

160.02  FINDINGS OF FACT.

1.  Adverse Effect. The flood hazard areas of the City of Fairfax are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

2.  Causes. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3.  Standards. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

160.03  PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:
1. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

2. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.04 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)

2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”

5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.

6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities
for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.

13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that
confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leved, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:
   
   A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
   
   B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
   
   C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
   
   D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

   A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.11(4)(A); and
   
   B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
   
   C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and
   
   D. The enclosed area is not a “basement” as defined in this section.
In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:
   A. Built on a single chassis;
   B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
   C. Designed to be self-propelled or permanently tovable by a light duty truck; and
   D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Fairfax, Panels 0385, 0391, 0392, dated April 5, 2010.

24. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a
Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

27. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

C. The cumulative cost of any repairs or improvements undertaken over a period of five years equals or exceeds fifty percent of the market value of the structure.
28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

29. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

160.05 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter apply to all lands within the jurisdiction of the City shown on the Official Flood Plain Zoning Map as being within the boundaries of the Floodway Fringe and Shallow Flooding (Overlay) Districts, as established herein. The Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Fairfax, Panels 0385, 0391, 0392, dated April 5, 2010, which were prepared as part of the Flood Insurance Study for Linn County and any future revisions thereto are hereby adopted by reference and declared to be the Official Flood Plain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this chapter. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Administrator in the enforcement of this chapter. The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts: (i) Floodway Fringe District (FF), and (ii) Shallow Flooding District (SF). The boundaries shall be as shown on the Official Flood Plain Zoning Map.

160.06 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.07 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.08 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
160.09 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.10 SEVERABILITY. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.11 STANDARDS FOR FLOODWAY FRINGE (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Development which involves the placement of structures, factory built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the State Department of Natural Resources to determine whether the land involved is either wholly or partly within the floodway or floodway fringe. Where 100-year flood elevation data has not been provided in the Flood Insurance Study, a comparable analysis by other governmental agencies, or as prepared by a licensed professional engineer in the State of Iowa, shall be submitted by the applicant. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to review the proposed development.

1. All development within the areas of significant flood hazard shall:
   A. Be consistent with the need to minimize flood damage.
   B. Use construction methods and practices that will minimize flood damage.
   C. Use construction materials and utility equipment that are resistant to flood damage.
   D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected.
thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer or architect licensed in the State shall certify that the floodproofing methods used are in accordance with accepted standards of practice for withstanding the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

A. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect to meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, and including those which have incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, and including those which have incurred substantial damage as the result of a flood, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.


A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

   (1) The structure shall not be used for human habitation.

   (2) The structure shall be designed to have low flood damage potential.
(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure’s service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.11(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.11(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.12 SPECIAL FLOODWAY STANDARDS. Uses determined to be within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters.

1. No use shall be permitted in the floodway 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 shall:
   A. Be consistent with the need to minimize flood damage.
   B. Use construction methods and practices that will minimize flood damage.
   C. Use construction materials and utility equipment that are resistant to flood damage.

3. No use shall affect the capacity or conveyance of the channel or floodway of 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 general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

5. Buildings, if permitted, shall have a 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 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 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 streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.13 STANDARDS FOR SHALLOW FLOODING (OVERLAY) DISTRICT. The performance standards for the Shallow Flooding District are the same as the performance standards for the Floodway Fringe District, with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood
protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

160.14 ADMINISTRATION. The Fairfax City Council shall appoint a person to implement and administer the provisions of this chapter and that such a person will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures.

4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.

5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

160.15 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.16 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:
1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.


5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.

6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.17 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

160.18 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, licensed in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.19 VARIANCES. The Zoning Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a
literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. **Cause.** Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. **Prohibited.** Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

3. **Required To Afford Relief.** Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. **Notice To Applicant.** In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

5. **Approval.** All variances granted shall have the concurrence or approval of the Department of Natural Resources.

**160.20 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept on to other land or downstream to the injury of others.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the City.

6. The requirements of the facility for a flood plain location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

160.21 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.20, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.

2. Limitation of periods of use and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.

5. Floodproofing measures.
160.22 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 (five hundred dollars) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevents the City of Fairfax from taking such other lawful action as is necessary to prevent or remedy violation.

160.23 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

   A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.
   
   B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.24 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

(Ch. 160 – Ord. 104 – Feb. 10 Supp.)

[The next page is 901]
CHAPTER 165

ZONING REGULATIONS

EDITOR’S NOTE

The City of Fairfax Zoning Ordinance, adopted July 11, 2000, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Zoning Regulations of the City.

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CHAPTER 166

SUBDIVISION REGULATIONS

166.01 PROCEDURE FOR SUBDIVIDING LAND. Every owner of any tract of land situated within the City or, pursuant to Section 354.9 of the Code of Iowa, within two (2) miles of the corporate limits of the City who may subdivide the same into two (2) or more parts for the purpose of splitting a lot, laying out a subdivision of the City or any an addition thereto, or subdivide the same into suburban lots or into streets, alleys, parks or tracts intended for public use or for the use of purchasers or owners of lots fronting or adjacent thereto shall follow the procedure outlined in this chapter.

166.02 DEFINITIONS. For use in this chapter the following terms or words shall be interpreted or defined as follows:

1. “Alley” means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

2. “Applicant” means the owner of land to be subdivided or the representative of such owner.

3. “Block” means a tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or corporate boundaries.

4. “Bond” means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.

5. “Building” means any structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind and includes any structure.

6. “Central sewage system” means a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or re-subdivision.

7. “Central water system” means a private water system established by the developer to serve a new subdivision or re-subdivision. It includes water treatment and distribution facilities.
8. “City Engineer” means the person designated by the Council to furnish engineering assistance for the administration of these regulations.

9. “Commission” means the Planning and Zoning Commission of the City.

10. “Cul-de-sac” means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.

11. “Developer” means the owner of land proposed to be subdivided or the representative of such owner.

12. “Easement” means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said owner’s property.

13. “Frontage” means that portion of a lot abutting on a street or way and complying with the setback and front yard requirements as they may exist, but is not considered as the side of a corner lot.

14. “Individual sewage disposal system” means a septic tank, seepage tile sewage disposal system, or any other approved treatment device.

15. “Local board of health” means a County, City or District board of health.

16. “Lot” means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

17. “Municipal arterial streets” means those streets which connect principal traffic generating areas or connect such areas with other street systems.

18. “Municipal collector streets” means those streets that collect traffic from municipal service streets and connect to other street systems.

19. “Municipal service-street” means those streets that primarily provide access to property.

20. “Owner” means any person having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.

21. “Plat” means a map, drawing or chart on which the developer’s plan of the subdivision of land is presented and which the developer submits for approval and intends, in final form, to record.

22. “P.O.S.” means a Plat of Survey as used to split one parcel into two separate parcels.

23. “Public improvement” means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately
assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

24. “Right-of-way” means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term “right-of-way” for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

25. “Roadway” means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

26. “Street” means and includes any public way, highway, street, avenues, boulevard, parkway or other public thoroughfare, and each of such words includes every other of them, and includes the entire width between property lines.

27. “Sub-divider” means a person, firm or corporation undertaking the subdivision or re-subdivision of a tract or parcel of land.

28. “Subdivision” means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or the re-subdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

29. “Surveyor” means a land surveyor licensed and registered under the provisions of Chapter 114 of the Code of Iowa.

166.03 PRELIMINARY PLAT. Each owner of land planning to subdivide shall confer with City Staff before preparing the preliminary plat in order to become familiar with the City Future Land Use Plan, submittal schedules, submittal fees and with any municipal regulations, ordinances or other conditions affecting the territory in which the proposed subdivision lies. In addition:

1. Submission of Preliminary Plat. The owner shall submit two (2) paper and one electronic copy of the preliminary plat that shall be filed with the Fairfax Building Department.

2. Action by Planning and Zoning Commission. The Planning and Zoning Commission shall consider said reports and approve, recommend modifications or disapprove the plat according to the preliminary plat submittal schedule. In case of recommended modification or disapproval, it shall give its reasons therefore. The Planning and Zoning Commission shall, after such
consideration, forthwith submit a copy of the preliminary plat together with the recommendations thereon to the Council.

3. **Action by Council.** The Council shall then approve or disapprove the preliminary plat in its discretion. One copy of the resolution shall be delivered or mailed to the owner.

4. **Improvement Plan.** When a preliminary plat has been approved by the Council, the owner shall thereupon prepare a plan of the improvements and the arrangement for the improvements and submit the same to the Council for their consideration. Within one hundred eighty (180) days after the preliminary plat and the plan of improvement have been approved by the Council, the owner shall then proceed with the preparation of the final plat of the land or a part thereof and file the same with the Council.

166.04 **FINAL PLATS.** The final plat shall comply with and conform to the preliminary plat as approved or modified by the Council. Two (2) paper copies (both with the original signatures) and one electronic copy of the final plat bound documents shall be submitted to the City together with a certificate from a qualified engineer stating that the final plat is substantially in accord with the preliminary plat as approved by the Council. When the final plat has been approved by the Council, the Clerk shall duly certify or stamp such approval on the two (2) copies of the final plat, and shall include the signed resolution approving the final plat with the bound documents. The final plat and bound documents with original signatures, including an original signed City resolution approving the final plat shall be returned to the owner.

166.05 **AUDITOR’S PLATS.** No auditor’s plats shall be approved by the Council, except when made in accordance with the laws of Iowa.

166.06 **PRELIMINARY PLAT DATA.** The preliminary plat shall be plainly marked “preliminary plat” and shall include the following information: the legal description of the property; the location of all surface features; the location of all subsurface features such as sewers, water mains, culverts and drain pipes; proposed streets and alleys and how they connect with existing streets and alleys; location of sidewalks and how they connect with existing sidewalks; the title under which the proposed subdivision is to be recorded, with the name and address of the owner, also north point, scale, date and name of surveyor, landscape architect, planner or engineer.

166.07 **REQUIREMENTS OF THE FINAL PLAT.** The following graphic and descriptive material is required to be provided on the final plat and in the accompanying material.

1. **Contents of the Final Plat.** Every plat of a subdivision offered for record shall conform to all of the following provisions where applicable:

   A. **The plat shall be a permanent copy.** Exact copies of the plat to be recorded shall be provided to and filed by the County Recorder, Assessor and Auditor. The original plat drawing shall remain the property of the registered land surveyor.
B. The size of each sheet showing any portion of the subdivided lands shall not be greater than eighteen (18) inches by twenty-four (24) inches or less than eight and one-half (8½) inches by eleven (11) inches.

C. Whenever more than one sheet is used to accurately portray the lands subdivided, each sheet shall display both the number of the sheet and the total number of sheets included in the plat, as well as clearly labeled match lines indicating where the other sheets adjoin. An index sheet shall be provided to show the relationship between the sheets.

D. A maximum scale of one hundred (100) feet to one inch shall be used. The scale used shall be clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.

E. Subdivisions shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.

F. An arrow indicating the northern direction shall be drawn in a prominent place on each sheet included in the plat, as well as the scale and date.

G. All monuments to be of record shall be adequately described and clearly identified on the plat. When additional monuments are to be established subsequent to the recording of the plat, the location of the additional monuments shall be shown on the plat.

H. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.

I. All distances shall be shown in feet to the nearest one-hundredth of a foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

J. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between the boundary line and intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line having a shown course. All bearings and angles shown shall be given to at least the nearest minute of arc.

K. Curve data shall be stated in terms of radius, central angle, and tangent, or length of curve. In all cases, the curve data must be shown for the line affected.
L. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.

M. When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as “more or less,” if variable. In all cases, the true boundary shall be clearly indicated on the plat.

N. All interior excepted parcels shall be clearly indicated and labeled, “not a part of this plat.”

O. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of the subdivision shall be shown. If the subdivision platted is a re-subdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.

P. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

Q. A strip of land shall not be reserved by the sub-divider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.

R. The purpose of all areas dedicated to the public must be clearly indicated on the plat.

S. The plat shall contain a statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor’s direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor’s Iowa registration number or seal.

T. Street names and clear designation of public alleys.

U. Block and lot numbers.

V. Name and address of owner and sub-divider.

W. Accurate dimensions for any property to be dedicated or reserved for public use.

X. The plat shall be signed and acknowledged by the subdivision land owner and his or her spouse.
Y. A sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

2. Information to be Provided in Accompanying Material. The following material shall be submitted with the final plat:

A. A correct legal description of the subdivision land.

B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

G. The City Council’s acceptance of all of the public improvements, which have been completed per the approved Plan of Improvements, or that a performance bond or letter of credit, each in the amount of 120% of a certified engineers cost estimate of the remaining public improvements to be installed/constructed. The performance bond or letter of credit shall be approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and
assess the costs against the sub-divider or future property owners in the subdivision.

166.08 MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT. No subdivision plat shall be approved by either the Planning or Zoning Commission or by the Council unless it conforms to the following minimum standards and requirements:

1. Acre Subdivisions. Whenever the area is divided into lots larger than ordinarily used in the area for building purposes, and there is reason to believe that such lots will eventually be re-subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit of a logical arrangement of smaller lots. Easements or deeds providing for the present or future opening and extension of such streets may, at the discretion of the Council, be made a condition of the approval of the plat.

2. Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining additions, or their proper projection where adjoining property is not subdivided, insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street and alley arrangement shall also be such as to cause no hardship to owners of adjoining property when they plat their own land and need to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the owner shall dedicate or convey to the town a sufficient area to provide a minimum width street or alley as prescribed in this section.

3. Street and Alley Widths; Profiles. The following requirements pertain to street and alley widths:

A. The width of major streets shall conform to the widths designated on the major street plan.

B. The minimum width for minor streets shall be sixty (60) feet except that in cases where the topography or special conditions make a street of more or less width more suitable, the Council may upon recommendation of the Commission vary this requirement.

C. Dead-end streets of less than three hundred (300) feet in length shall have a minimum width of sixty (60) feet, unless, because of unusual conditions the Commission may require a street of a lesser or greater width. A dead-end street shall terminate in a circular right-of-way with a minimum diameter of one hundred twenty (120) feet, unless the Commission approves an equally safe and convenient space. No dead-end street shall be longer than six hundred (600) feet.

D. The minimum width of an alley in a residential block, when required because of unusual conditions, shall be twenty (20) feet. Alleys are not recommended in residential districts except under
unusual circumstances. Alleys are required in the rear of all commercial and industrial districts and shall be at least twenty-five (25) feet wide. A cut-off shall be made at all acute and right angle alley intersections within the block by a curve of not less than a ten (10) foot radius.

E. Where alleys are not provided, easements to the City of not less than a total of eight (8) feet in width shall be provided on each side of all rear lot lines and side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and other utilities. Construction on and use of the land subject to said easements may be made only upon approval of the Council.

F. Profiles shall be made and submitted to the City of all streets and alleys and shall show street grades, location, size and grade of all conduits, sewers, pipe lines to be placed under the street and alleys. Profiles of east and west streets shall be drawn so that the west end of the profile shall be at the left side of the drawing so that the south end of the profile shall be at the left side of the drawing.

G. For main, secondary and minor thoroughfares, the minimum radius of curvature shall be subject to the approval of the City Engineer. The maximum grade so far as practicable shall not exceed six percent (6%) for main and secondary thoroughfares, or eight percent (8%) for municipal service streets; however, a variance from these requirements may be permitted by the Council to meet existing conditions of topography.

4. Street Names. The following requirements pertain to street names:
   A. Any street that is obviously in alignment with an existing street shall bear the name of the existing street; otherwise names shall not duplicate or be similar to existing street names.
   B. Where it is desired to subdivide a parcel of land which because of its size and location does not permit of a normal street arrangement, there may be established a “Place.” Such “Place” may be in the form of a court, a non-connecting street, or other arrangement, provided that proper and easy access shall be provided for all of the lots from a dedicated street or court, and the size of the layout shall be such as to insure a building arrangement corresponding to the standards requirements for normal additions conforming to the area.

5. Lots. Following are lot requirements:
   A. The side lines of a lot shall be at right angles to straight street lines or radial to curved street lines, unless a variation to this rule will give a better street and lot plan. Lots with double frontage are not permitted except when approved by the Council.
B. The minimum dimensions for any lot shall be sixty (60) feet in width and one hundred (100) feet in depth, but in no case shall a lot that is to be used for residential purposes contain less area than is required by the lot area regulation of the zoning district in which the property is located.

C. Lots shall be of a width that will permit the maintenance of all building lines and yard requirements as may be provided by the zoning regulations of the City.

D. All major street intersections and other points likely to be dangerous shall have a radius of not less than sixteen (16) feet at the street corner. All acute angles at street intersections shall be rounded by a radius of not less than fifteen (15) feet.

6. Blocks. No block shall be longer than one thousand three hundred and twenty (1,320) feet between street lines, and blocks more than seven hundred fifty (750) feet in length shall have a cross walk, the public right-of-way of which shall not be less than ten (10) feet in width, located at or near the center of the block.

7. Parks, School Sites, Etc. In subdividing property consideration shall be given to suitable sites for schools, parks, playgrounds and other common areas for public use so as to conform to the adopted master plan for Fairfax. Any provision for schools, parks or playgrounds shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency.

8. Character of Development. The Planning and Zoning Commission shall have the right to counsel with the owner regarding the type and character of development that will be permitted in the subdivision, and may urge that certain minimum regulations regarding this matter be incorporated in the restrictive covenants. Such provision is intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate character of development in the property which is subdivided.

166.09 IMPROVEMENTS. Following are requirements pertaining to improvements:

1. Required. Before the final plat of any subdivision is approved and recorded, the owner shall make and install the minimum improvements described in this section. If, at the time of the presentation of the final plat, it is not practicable or advisable to have the required improvements completed before the plat is accepted and approved, the owner shall enter into a contract with the City to make such improvements at such time as may be therein stated. The performance of the contract shall be secured by the filing of a bond or letter of credit, approved by the Council, in an amount equal to 120% of an engineer’s estimate of the public improvements costs remaining to be installed/constructed. The developer shall be responsible for providing this engineer’s cost estimate, as certified by a licensed engineer in the State of Iowa.
2. Water. Where the subdivision is within the City limits, the owner shall make necessary arrangements to serve each lot with water main and appurtenances that is connect to the City of Fairfax Public Water Supply System. Said water main and appurtenances shall be constructed in accordance with the City’s design and specification standards, and under the review and approval of the City’s Water Supply Superintendent and Engineer. The City may require connection fees for City water service. Any connection fees are payable prior to connection or a payment schedule agreement must be approved by the Council.

3. Sanitary Sewers. Where a subdivision is within the City limits, the owner shall connect with the sanitary sewer system of the City and provide adequate sewer lines accessible to service each lot. Said sewers shall be constructed in accordance with the City’s design and specification standards, and under the review and approval of the City’s Sewer Superintendent and Engineer. The City may require connection fees for City sanitary sewer service. Any connection fees are payable prior to connection or a payment schedule agreement must be approved by the Council.

4. Streets. The owner shall grade all the streets to the required full width of the right-of-way including half streets, alleys and other thoroughfares for public use, established in the subdivision. The owner shall surface all streets and alleys including half streets with one of the following types of surfacing:

   A. Reinforced concrete pavement with integral curb and gutter as specified in the standard City specifications.

   B. Asphaltic concrete pavement with a reinforced concrete curb and in accordance with specifications of the City Engineer. Where one-half width streets are adjacent to one-half width streets previously dedicated for public use, the owner is not required to construct and pay for a full width pavement but unless otherwise arranged for, said owner is required to file a petition with the Council requesting the streets to be paved under public contract, the costs of which will be assessed to the benefited property. In such petition the owner shall agree to pay the full cost of that portion of the improvement as may be assessed against the abutting property under the laws of Iowa, and shall further agree and consent to waive any rights under Section 391.48, of the Code of Iowa.

5. Street Utilities and Grading. Before the construction of pavement, the required utilities such as water, sewer, gas and other utilities shall be installed along with connections laid to a point in the street not more than eight (8) feet from the property line. All trenching backfill shall be compacted in accordance with City specifications and the sub-grade made acceptable for street surfacing. The width of the street surfacing shall conform to the traffic requirements of the street and shall in no event be less than twenty-eight (28) feet in width including curbs. In case of half width streets bounding the plat the owner is required to construct only one-half of the width of an all-weather
street surface, if in the judgment of the Council such surfacing is necessary. All street grading and street improvements shall conform to the appropriate standard plans and specifications of the City. Drainage. Adequate provisions shall be made for drainage of surface water subject to the approval of the City Engineer.

6. Drainage. Adequate provisions shall be made for drainage of surface water subject to the approval of the City Engineer.

7. Grading Lots. The owner shall, whenever necessary, grade any or all portions of the property subdivided with lots so that each lot will be suitable and usable for the erection of residential or other structures thereon, including any lots, out-lots or portions of the property that will be deeded to the City. This shall include providing a minimum of four (4) inches of top soil over the entire site. The four (4) inches of top soil shall be placed in all areas where buildings and other permanent hard surfacing is not placed. All top soil depths shall be randomly sampled by the Fairfax Building Department for verification prior to any seeding or sodding, at the time of the required grading inspection. Methods, number of samples and sample locations shall be at the discretion of the inspector on a site by site basis.

8. Utilities. The City requires that such improvements as electric lines, gas mains, fiber optic lines, street lights and similar facilities in any subdivision shall be arranged for before the final plat is approved. As part of this arrangement, a Street Lighting Exhibit showing the approved location of the street lights shall be accepted by the City, and proof of payment for these street lights shall also be submitted to the City.

9. Sidewalks. Sidewalks shall be constructed on both sides of the street in the subdivision, including re-plats, and shall be no less than five (5) feet in width and no less than four (4) inches in thickness and shall be constructed in accordance with plans and specifications approved by the City Engineer, except the owner may be granted permission by the Council to omit a sidewalk or sidewalks in a subdivision or any part thereof if in the discretion of the Council the same are found to be unnecessary.

10. Maintenance Bond. Any person desiring to engage in the construction of the improvements described in subsections 2, 3 and 4 above shall execute a maintenance bond in a form and amount approved by the Council.

11. Fire Hydrants. A fire hydrant shall be placed at all intersections of streets and at three hundred (300) foot intervals therefrom within a subdivision hereafter established pursuant to law within the City. All costs and expenses incident to the construction, installation, and connection of any fire hydrant as herein required shall be paid by the owner of the land subdivided hereafter pursuant to law within the City.

12. Monuments shall be in conformance with the following requirements:
   
   A. Establishment of Permanent Control Monuments. Prior to the offering of the plat of any subdivision for record, the surveyor shall
confirm the prior establishment of permanent control monuments at each controlling corner on the boundaries of the parcel or tract of land being subdivided. If no permanent control monuments exist, the surveyor shall establish at least two (2) permanent control monuments for each block created, or if the area subdivided into lots is less than a block in size, at least two (2) permanent control monuments shall be established for the subdivision. Permanent control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a copy of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of the monument.

B. Other Monuments of Record. Other monuments established prior to the recording of the plat of the subdivision and described on the plat shall be considered monuments of record and shall be given the same weight as original permanent control monuments if the monuments remain undisturbed in their original positions. The additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in paragraph A of this subsection.

C. Establishment and Recording of Other Monuments. Monuments other than the permanent control monuments required in paragraph A of this subsection shall not be required to be established before the recording of the plat or the conveyancing of lands by reference to the plat if the surveyor includes in the certification of the plat that the additional monuments required by these regulations shall be established before a specified future date.

D. Additional Monuments Required. Additional monuments shall be constructed and embedded according to the provisions for permanent control monuments prescribed in paragraph A of this subsection, and shall be set all of the following locations whether set prior to the recording of the plat, or subsequent to such recording:

1. At every corner and angle point of every lot, block or parcel of land created.
2. At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way.
3. At every point of curve, tangency, reversed curve, or compounded curve on every right-of-way line established.

E. Placement of Monument. When the placement of a monument required by this chapter at the prescribed location is impractical, it is permissible to establish a reference monument in close proximity to the prescribed location. If the reference monument is established prior to
the recording of the plat and its location properly shown on the plat, the reference monument shall have the same status as other monuments of record. Where any point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor. The existing monument shall be considered a monument of record when properly shown and described on the recorded plat.

166.10 P.O.S. REQUIRED PROCEDURE. P.O.S. submittals shall be for subdividing one (1) parcel into two (2) parcels only. No parcel or property that has previously been subdivided by a P.O.S. or by simple deed description shall be further subdivided by a P.O.S., unless it is being subdivided for the purpose of a City Acquisition. A Final Plat shall be required for all property subdivisions of three (3) lots or more, and for all for properties or parcels that have previously been subdivided by a P.O.S. or by simple deed description.

1.  Site Plan Required. All P.O.S. shall be submitted with a site plan, with the exception of P.O.S. used for City Acquisitions, for approval by the Fairfax City Council. Each P.O.S. Site Plan shall be submitted with a completed Site Plan check list.

2.  Submit to Staff. Site plans shall be submitted to City Staff for review prior to being presented to the Fairfax City Council. City Staff shall review P.O.S. site plans, suggest revisions and improvements and make recommendations to City Council.

3.  Submittal Schedules. P.O.S. submittals are subject to the submittal schedules developed by the City for scheduling submittals and City Council consideration.

4.  Council Action. Action by City Council is required for all P.O.S. submittals by approval or disapproval at its discretion.

166.11 SUBMITTAL FEES. A schedule of submittal fees shall be established by Resolution of the Fairfax City Council and be paid to the City of Fairfax.

166.12 VARIATIONS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustice, the Council, upon recommendation of the Planning and Zoning Commission, may vary or modify such requirements so that the sub-divider is allowed to develop such property in a reasonable manner, but so, at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

166.13 ENFORCEMENT. The following provisions pertain to enforcement:

1.  Plat Properly Approved. No plat of any subdivision shall be recorded in the County Recorder’s office or have any validity until it has been approved in the manner prescribed herein.
2. Issuance of Building or Repair Permits. The Building Official shall not issue any building or repair permits for any structure on any tract of land required to be platted under the provision hereof and of Chapter 354 of the Code of Iowa, until this chapter has been complied with.

3. Public Improvements. The Council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been dedicated after June 25, 1953, unless such subdivision or street has been approved in accordance with the provisions of this chapter.

4. Plats Outside Corporate Limits. All plats of property situated outside of the corporate limits which require action by the Planning and Zoning Commission and/or Council shall comply with the foregoing regulations.

(Ch. 166 - Ord. 52 – Oct. 17 Supp.)
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CHAPTER 167

AIRPORT ZONING REGULATIONS

167.01 Purpose. These regulations are adopted by the Council of the City of Cedar Rapids, Iowa, and the Council of the City of Fairfax, Iowa, for the purpose of exercising to the fullest extent possible the power granted by Chapter 329 of the Code of Iowa pertaining to the restriction of airport hazards in the vicinity of airports and creating airport hazard zones.

167.02 Definitions. As used in this chapter, unless the context otherwise requires:

1. “Airport” means the Eastern Iowa Airport as now exists or as may hereafter be added to or changed, located in Cedar Rapids, Iowa, and Linn County, Iowa, and owned by the City of Cedar Rapids and under the management and control of The Eastern Iowa Airport Commission by the provisions of Chapter 330 of the Code of Iowa. The airport includes the area of land designed and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The word “airport” as used in these regulations also means and includes The Eastern Iowa Airport as shown in the Cedar Rapids Municipal Airport Master Plan adopted by the Cedar Rapids Airport Commission on November 25, 1996, which is now on file in the office of the Airport Director in the Administration Building at said Airport.

2. “Airport elevation” means the established elevation of the highest point on the usable landing area which is 863.9 feet above mean sea level.

3. “Airport hazard” means any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking off at the Airport as herein defined, or which is otherwise hazardous to such landing or taking off of aircraft. It also includes any use of land within any zone established by these regulations in such a manner as to create electrical interference with radio communication between the Airport
and aircraft or unreasonably interfere with electronic navigation aids or make it difficult for pilots to distinguish between airport lights and others; or as to result in glare in the eyes of pilots using the Airport or impair visibility in the vicinity of the Airport while engaged in landing or taking off at the Airport, or any other use within any zone established by these regulations which is otherwise hazardous to such landing or taking off of aircraft at the Airport.

4. “Airport hazard area” means an area of land or water within the territorial limits of The Eastern Iowa Airport Zoning Map, which is made a part of these regulations, upon which an airport hazard might be established if not prevented, as provided by these regulations.

5. “Approach surface” means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 167.05 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

6. “Approach, transitional, horizontal and conical zones” are set forth in Section 167.03 of this chapter.

7. “Board of Adjustment” means the Board consisting of five (5) members appointed as provided in Section 167.09.

8. “Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

9. “Hazard to air navigation” means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

10. “Height” - For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

11. “Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

12. “Instrument runway” means a runway equipped or to be equipped with precision or non-precision electronic navigation aid or landing aid, or other air navigation facilities, suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
13. “Landing area” means the general area of the Airport used for the landing, take-off, or taxiing of aircraft, as indicated upon the Airport Zoning Map.

14. “Larger than utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

15. “Municipalities” means the City of Cedar Rapids, Iowa, and any city, town, or county within the territorial limits of The Eastern Iowa Airport Zoning Map hereinafter described, within which an airport hazard area might be established.

16. “Nonconforming use” means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.

17. “Non-instrument runway” means a runway other than an instrument runway.

18. “Non-precision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

19. “Obstruction” means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 167.05 of this chapter.

20. “Person” means an individual firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or other similar representative thereof.

21. “Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

22. “Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section
167.03 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

23. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

24. “Structure” means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.

25. “Transitional surfaces” means surfaces which extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.


27. “Utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.


167.03 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to The Eastern Iowa Airport. Such zones are shown on the Airport Zoning Map dated December 30, 1997, and prepared by the Howard R. Green Company. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Runway Larger Than Utility With A Visibility Minimum As Low As ¾ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

5. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

6. Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

7. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

167.04 AIRPORT ZONING MAP. There is hereby adopted and enacted an airport zoning district map dated December 30, 1997, signed by the Mayor, and attested by the Clerk, which map is on file in the office of the City Clerk, and is hereby incorporated into and made a part of these regulations. The boundaries of the various zoning districts are herewith enacted and established as shown on said map subject to the provisions hereinafter set out relating to subsequent boundary changes and amendments. Said map is designed and intended as a method and means of setting forth the boundaries of the various airport zoning districts as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and
established as a part of the official district map for The Eastern Iowa Airport and are made a part of these regulations. As relates to Chapter 165, said district map shall not be set out in this Code of Ordinances and shall remain on file in the office of the City Clerk after adoption and publication and shall constitute a part of this chapter the same as if set out herein.

167.05 AIRPORT ZONE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Runway Larger Than Utility With A Visibility Minimum Greater Than ¾ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

3. Runway Larger Than Utility With A Visibility Minimum As Low As ¾ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

5. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 863 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the cortical zone, there are
established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

6. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1,013.9 feet above mean sea level.

7. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

8. Excepted Height Limitations – Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

167.06 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

167.07 NONCONFORMING USES.

1. Regulations not Retroactive. The regulations prescribed herein shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of any nonconforming use. However, no pre-existing nonconforming structure, tree, or use shall be replaced, rebuilt, altered, allowed to grow higher, or be replanted so as to constitute a greater airport hazard than it was when these regulations were adopted. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations and resolution is completed within one year thereafter.

2. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance
thereon of such markers and light as shall be necessary to indicate to the
operator of aircraft in the vicinity of the airport the presence of such
airport hazards. Such markers and lights shall be installed, operated and
maintained at the expense of The Eastern Iowa Airport Commission.

167.08 AIRPORT ZONING COMMISSION. An Airport Zoning
Commission shall be provided as follows: The Zoning Commission shall
consist of five (5) members, two (2) of whom shall be appointed by the City
Council of Fairfax, and two (2) of whom shall be selected by the City Council
of Cedar Rapids, and one additional member to act as Chairperson, who shall
be selected by a majority vote of the members appointed by the City of Fairfax
and the City of Cedar Rapids. The terms of such members shall be as provided
by Section 329.9 of the Code of Iowa. Such Airport Zoning Commission shall
follow the procedures as provided in Sections 414.4 and 414.6 of the Code of
Iowa, as required by Section 329.9 of the Code of Iowa.

167.09 BOARD OF ADJUSTMENT. A Board of Adjustment is hereby
appointed as follows: The Board shall consist of five (5) members, two (2) of
whom shall be appointed by the City Council of the City of Fairfax and two (2)
of whom shall be appointed by the City Council of the City of Cedar Rapids,
and one additional member to act as Chairperson, who shall be selected by a
majority vote of the members appointed by the City of Fairfax and the City of
Cedar Rapids. The terms of such members shall be as provided in Section
329.12 of the Code of Iowa. Each such Board shall have the powers and duties,
and shall follow the procedures, provided by Sections 414.9 to 414.19 of the
Code of Iowa.

167.10 VARIANCES. Any person desiring to erect or increase the height of
any structure, or to permit the growth of any tree, or otherwise use property in a
manner which would constitute a violation of these regulations may apply to the
Board of Adjustment having jurisdiction of the area where such violation would
occur for a variance from these regulations. Such variances shall be allowed
where a literal application or enforcement of these regulations would result in
practical difficulty or unnecessary hardship, and the relief granted would not be
contrary to the public interest, but would do substantial justice and be in
accordance with the spirit of these regulations and of Chapter 329 of the Code
of Iowa; provided, however, any such variance may be allowed subject to any
reasonable conditions that the Board of Adjustment may deem necessary to
effectuate the purposes of Chapter 329 of the Code of Iowa, including but not
limited to the following:
1. The reservation of the right of the City of Cedar Rapids, and The Eastern Iowa Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

2. To require the person requesting the variance at said person’s own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Any appeal from the decision of the Board of Adjustment shall be in accordance with the provisions of Section 414.15 et seq. of the Code of Iowa.

167.11 FINDING CONCERNING PUBLIC INTEREST. The City Council of Cedar Rapids and City Council of Fairfax specifically find that an airport hazard, as herein defined, within its territorial limits would endanger the lives and property of users of The Eastern Iowa Airport and all occupants of land, and other persons in the vicinity, and would also tend to destroy or impair the utility of the airport and the public investment therein; accordingly each municipality does hereby declare:

1. The creation or establishment of an airport hazard, as herein defined, within its territorial limits is a public nuisance and an injury to the community served by The Eastern Iowa Airport.

2. It is necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards, as herein defined, be prevented.

3. This should be accomplished to the extent legally possible by proper exercise of the police power.

4. Each municipality expressly declares that it shall not become liable for the expenditure of its public funds unless such expenditure shall be approved in advance by its governing body.

167.12 ADMINISTRATION AND ENFORCEMENT. The administration and enforcement of these zoning regulations shall be performed by The Eastern Iowa Airport Commission acting through the Airport Director, or through such other persons or representatives as The Eastern Iowa Airport Commission may from time to time by resolution direct, but, as provided by Section 329.13 of the Code of Iowa, such duties of enforcement and administration may not be delegated to any person who is a member of any Board of Adjustment.

167.13 EQUITABLE REMEDIES. The City of Cedar Rapids and The Eastern Iowa Airport Commission may maintain actions in equity to restrain
and abate as nuisances the creation or establishment of airport hazards pertaining to The Eastern Iowa Airport in violation of these regulations for any area, whether within or without the territorial limits of the City of Cedar Rapids, as authorized by Section 329.5 of the Code of Iowa.

167.14 CONFLICTING REGULATIONS. In the event of any conflict between these Airport Zoning Regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.

167.15 PROHIBITED ACTS. It is unlawful for any person to do any of the acts hereinafter stated unless a variance from the provisions of these regulations shall have been previously allowed by the Board of Adjustment.

1. No person shall erect or increase the height of any structure, or permit the growth of any tree, to a height in excess of that provided by Section 167.05 of these regulations for the zone or area where such act occurs.

2. No person shall hereafter place or cause to be placed, above ground, transmission lines or poles or other structures supporting the same within 200 feet of the outer boundary of the airport as said boundary is shown on the Airport Zoning Map.

3. No person shall otherwise use such person’s property within a zone established by these regulations in such a manner as to create an airport hazard as defined herein.

167.16 PENALTIES. A violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a violation of this Code of Ordinances. Each day a violation continues to exist shall constitute a separate offense.

[The next page is 951]
CHAPTER 168

SIGN REGULATIONS

168.01 INTENT. This chapter is intended:

1. To permit and regulate signs in the least burdensome way that will carry out the purposes of these regulations.

2. To assure compatibility of signs with surrounding land uses and preserve the values of surrounding properties.

3. To prevent the sign’s size, location, construction or manner of display from endangering the public safety of individuals, confusing, misleading or obstructing the vision necessary for traffic safety; or otherwise endangering the public health, safety, morals and welfare, as set forth in the Fairfax Comprehensive Plan and Zoning Ordinance.

4. To regulate the size, location and certain features of signs as necessary to enable the public to locate goods, services and facilities without disruption to surrounding areas.

5. To prevent visual clutter caused by a proliferation of signage from de-grading our physical environment, prevent wasteful use of natural resources and to protect the aesthetic appearance of the community.

168.02 REFERENCE TO ZONING ORDINANCE AND BUILDING CODE. All references in this chapter to zoning districts, rules or provisions of the zoning ordinances shall be to Chapter 165 of the Fairfax Code of Ordinances. All references in this chapter to the building and construction codes shall be to Chapter 153 of the Fairfax Code of Ordinances. This section shall be read in conjunction with all provisions of the zoning ordinance and the building and construction codes. All signs shall comply with the zoning ordinance and the building and construction codes.

168.03 DEFINITIONS. The following words and phrases used in this chapter, unless the context clearly indicates otherwise, have the meanings ascribed to them in this section.

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CODE OF ORDINANCES, FAIRFAX, IOWA

- 951 -
1. Billboard or Advertising – An advertising sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is attached. A billboard is a separate category of sign form and is not a business identification sign.

2. Changeable Copy Panel – A sign face that is designed to secure individual letters forming messages or advertising that are changed periodically.

3. Corner Visual Clearance – Signs located within 50 feet of a corner street lot line intersection shall be so erected and maintained that an unobscured, visual sight area is provided for vehicle operators. Such unobscured area, as a minimum, shall extend from a distance of two (2) feet above finished street grade to 10 feet above said grade. No more than two (2) pole or post supports of no more than 10 inches in diameter shall be permitted within such unobscured area. Additional limitations upon location, size, and height of any such signs shall be required if the City's Engineer demonstrates conclusively that such additional specific limitations are necessary to meet requirements of standard traffic engineering practices.

4. Sign – Any device, including its component parts, providing identification, advertising or directional information for a business, service, product, person, organization, place, building, subject, idea or thing. Included in this definition as signs are graphic devices such as logos, attention attracting media such as logo sculptures and obtrusive, colored fascia or architectural elements containing symbols or copy.

5. Sign Area.
   A. The sign area shall mean 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 use 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 will be totaled.
   B. The area of signs composed of words or characters attached directly to a building or wall shall mean the area within a regular geometric shape which encloses the words or characters.
   C. The area of signs composed of spherical, three dimensional, free form, sculpture and other non-planar signs 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.

D. 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.

6. Sign Face – The surface upon, against or through which the message is displayed or illustrated on the sign. A sign may have two or more faces.

7. Sign Height – The vertical distance from the uppermost point used in measuring the area of the sign to the grade.

8. Sign, Abandoned – Any sign remaining in place for a period of ninety (90) days or more which no longer advertises or identifies an activity, business, product, or service available on the premises on which the sign is located.

9. Sign, Access Identification/Information – A freestanding sign intended to identify the ingress and egress of a lot or development. Signs shall not display company logos, name or other forms of advertising unless allowed elsewhere in the chapter.

10. Sign, Advertising or Billboard – A sign which directs attention to an establishment, business, profession, commodity, service premises, person or thing which may be located, produced, conducted, sold, or offered elsewhere than on the lot upon which the sign is located.

11. Sign, Apartment Complex – A permanent on-premises sign identifying an apartment complex but not advertising apartments for rent. An apartment complex sign may consist of two components constructed on both sides of an entrance drive or street.

12. Sign, Business Identification – An on-premises sign which directs attention to a legal operating business, school, church, non-profit organization, commodity, service or entertainment conducted, sold or offered only upon the premises where such sign is located. This includes awnings, windows, roofs, walls, doors and canopies or any other building mounted sign that can be seen from the exterior.

13. Sign, Changing – A sign where different copy changes are shown such as an electrically or electronically controlled time and temperature sign, message center or reader board.

14. Sign, Construction – A sign identifying the architect, engineer, designer, contractor, developer, lending institution or one or more of
them; with respect to a parcel of land or construction project between the
time of the issuance of a building permit and an occupancy permit.

15. Sign, Directional or Information – A secondary on-site sign
displayed strictly for the direction, safety, or convenience of the public
and which sets forth no advertisement beyond business identification.
Directional signs would include signs which identify parking areas and
drives, restrooms, addresses, telephone, exits and entrances, no
trespassing area, danger areas, and similar information.

16. Sign, Electrical – Any sign containing electrical wiring which is
attached or intended to be attached to an electrical energy source.

17. Sign, Flashing – Any 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. Note: Automatic changing signs conveying
public service messages such as time and temperature or electronically
controlled message centers are classified as changing signs, not flashing
signs. See #13, Sign, Changing.

18. Sign, Freestanding – A sign that is an independent structure, self
supporting and not attached to a building or other accessory structure.
Ground signs and pole signs are freestanding signs.

19. Sign, Fuel Price – as required by State and Federal law, not more
than one price sign for each frontage, not to exceed 20 square feet each
and subject to height and setback limits established by the zoning district
where the sign is located.

20. Sign, Ground – Any sign, other than a pole sign, in which the
entire bottom is in contact with or is close to the ground and is
independent of any other structure.

21. Sign, Menu Board – A permanently mounted sign for a drive in or
drive through restaurant listing the foods available and their prices for
the benefit of customers already on the property. Menu Boards less than
6 square feet and installed to service individual parking spaces shall be
exempt from the provision of this chapter.

22. Sign, Mobile – Any sign which by its construction or nature is
designed to be moved from one location to another. When on a trailer,
the removal of the wheels or the anchoring of the sign by means of
chains, wires, concrete blocks, sandbags or other types of temporary
anchors does not change the mobile classification of the sign. This shall
be interpreted to prohibit any lettering, advertisement or identification
otherwise permitted to be mounted on or painted on and incidental to the
primary use of a vehicle as a delivery, service or transportation vehicle.
This includes inflatable devices such as blimps or balloons used as signs, except for such portable signs or inflatable devices which are hand held by any person or persons, and except ground mounted temporary inflatable signs for the period of a civic event. Manned balloons or airships are not included in these restrictions and prohibitions.

23. **Sign, Existing Non-Conforming** – Any legally established sign in existence at the time of the enactment of this ordinance, March 8th, 2018, is considered non-conforming and may remain. Any non-conforming sign whose sign area is destroyed by 50% or more may not be replaced and shall be removed. A non-conforming sign may continue as long as it is not enlarged or replaced. If a non-conforming sign is removed for any reason, it may not be replaced.

24. **Sign, On Premises** – Any sign identifying the property upon which the sign is located and/or advertising goods or services available or produced on that property.

25. **Sign, Political** – A sign which is designed and located to influence the action of the citizens regarding candidates; measures appearing on the ballot of any national, state or local election or caucus; or issues of individual or community concern.

26. **Sign, Real Estate** – Any sign, other than a subdivision sign, advertising the sale, rent or lease of the particular building or real property upon which it is displayed.

27. **Sign, Subdivision** – A permanent on-premises sign, identifying a subdivision recorded and on file with the City and not advertising lots and/or buildings, for sale or lease.

168.04 **EXEMPTIONS.** The provisions and regulations of this chapter shall not apply to the following signs:

1. House numbers and nameplates identifying the occupant and/or address of a parcel of land shall not exceed two (2) square feet in area and must be attached to the structure.

2. Plaques, tables or names of buildings and date of erection when cut into any surface or when such sign is attached flush to the building.

3. Flags bearing the official design of a nation, state, municipality, educational institution or non-profit organization.

4. Traffic, street and other municipal and state signs.

5. Community special event signs approved by the Council.

6. Railroad operational signs and signals.
7. Temporary display, not exceeding thirty (30) days out of any twelve (12) month period, of a patriotic, religious, charitable or civic character on privately owned property.

8. Signs within a stadium, arena, open air theater, shopping center or other use which are normally only seen by persons within such use.

9. Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public right of way.

10. Legal notices.

11. Safety and warning signs, such as warnings or high voltage, explosives, hazardous materials and other dangerous situations.

12. Signs advertising any sales popularly referred to as “Garage” and “Yard” sales complying with other City regulations.

13. Signs for home occupation that do not exceed one square foot, are not illuminated and are building mounted.

14. Directional signs less than 3 square feet.

15. No trespassing signs less than 4 square feet.

16. Signs painted on or attached to a motorized and licensed vehicles whose primary purpose is the transportation or delivery of goods, service or people.

**168.05 PROHIBITED SIGNS.** The following signs are prohibited within the City of Fairfax:

1. Mobile Signs as defined in Section 168.03(22).

2. Signs which are affixed to trees, utility poles, fire hydrants, fire escapes, bus stop shelters or other structures, in a public right of way, except for signs permitted by this Chapter and erected with all of the appropriate permits.

3. Signs at a location where, by reason of position, shape or color, the sign may interfere with, obstruct the view or be confused with any authorized traffic sign, signal or device or any such sign which makes use of the words “STOP”, “LOOK”, “DANGER” or any other word, phrase or symbol in such a manner as to interfere with, mislead or confuse the drivers of motor vehicles, bicycle or pedestrians.

4. Flashing Signs as defined in Section 168.03(17).

5. Signs with light sources of such brightness as to constitute a hazard to pedestrian, vehicular traffic or aircraft, including any beamed light or light of great intensity pointing toward oncoming traffic, aircraft or any other property.
6. Any sign, except menu boards, emitting sound other than that normal for their internal operation.

7. Signs erected in or over a public street, alley or sidewalk.

8. Any sign which obstructs free ingress or egress from a required door, window, fire escape or other required exit way or ventilation opening.

9. Signs which revolve or swing with normal wind currents or mechanical devices.

10. Signs and portions thereof so located as to obstruct or prevent the operation of the Fire Department and to prevent free passage from one part of a roof to any other part thereof.

11. Temporary Signs are prohibited except for those permitted in Section 168.04(7).

12. Roof Signs.

168.06 SIGN PERMIT FEES, APPLICATION AND INSPECTION.

1. Permits for signs shall be required as outlined in Section 168.09, Permitted Signs By Type and Zoning District, except those specifically exempt by Section 168.04, Exemptions, and Temporary Signs.

2. It shall be unlawful for any person to erect, alter structurally or relocate within the City of Fairfax any sign as herein defined without first obtaining a permit from the building official. All electrically illuminated signs shall be subject to the provisions of all electrical codes adopted by the City of Fairfax and applied for with a lighting plan.

3. Every applicant before being granted a permit hereunder shall pay the permit fee, as determined by resolution of the City Council, for each such sign or other advertising structure.

4. Applications for permits shall be made upon forms provided by the building official and shall contain or have attached thereto the following information:

   A. The name, address and telephone number of the applicant.

   B. The location of building, structure, or lot where the sign is to be located.

   C. Position of signs in relation to nearby buildings or structures.

   D. Electronic or ink drawings of the plans and specifications and method of construction and attachment to the building or on the ground.
E. Written consent of the owner of the building, structure, or land to which or on which the sign is to be erected. The lease between landlord and tenant will constitute written consent.

F. Such other information as the building official shall require to show full compliance with this and all other laws and ordinances of the City of Fairfax which may be applicable, including the intended duration of temporary signs.

168.07 ILLUMINATION OF SIGNS AND NAMEPLATES. The illumination of signs is permitted in all districts with the following restrictions:

1. AG: Agricultural; M1: Light Industrial; M2: Heavy Industrial; CN: Conservation/Public Use Districts:
   A. No restrictions apply.

2. RS: Single Family Residential; RM: Multi-Family Residential; RH: Mobile Home Park Residential; C1: Central Business Commercial; C1A: Light Commercial Districts:
   A. Shall not exceed 200 watts total.
   B. Shall be lit only with non-intermittent lighting.

3. C2: Highway Commercial District:
   A. Shall not exceed 600 watts per sign or total watts of 700 for the premises.
   B. Shall be lit only with non-intermittent lighting.

168.08 CONDITIONAL USE PERMITS FOR SIGNS. The City Council may, by Conditional Use Permit after public hearing and subject to such protective restrictions that it deems necessary, authorize the erection of more than one free-standing business/identification sign. In its determination upon this particular use, the City Council shall consider all of the following provisions:

1. That the single business has separate and multiple buildings requiring individual identification, rather than a building complex such as a shopping center.

2. That the businesses lot contains at least 300 feet of frontage per building to be separately signed.

3. That the business to be separately signed is made up of competing product lines.

4. That the requirement for separate signs is beyond the control of the business, i.e., franchise agreements.
5. Any special use signs.

168.09 PERMITTED SIGN TYPES BY ZONING DISTRICTS. The following sections specify the permitted sign types, area, height and setback requirements for signs in each zoning district.

P = Permitted Sign Without A Permit  
SP = Sign Permit Required  
N = Not Allowed  
T = Temporary  

*Temporary Signs and signs less than 10 square feet may be displayed on poles or posts.

<table>
<thead>
<tr>
<th>SIGN TYPE</th>
<th>AG</th>
<th>RS</th>
<th>RM</th>
<th>RH</th>
<th>C1</th>
<th>C1A</th>
<th>C2</th>
<th>M1</th>
<th>M2</th>
<th>CN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abandoned</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Access Identification/Information</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Address</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Billboard or Advertising</td>
<td>SP</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>N</td>
</tr>
<tr>
<td>Bulletin or Church Board</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Business Identification</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Construction: Subdivision - T</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Directional - 3 sq ft or less in area</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Directional - Over 3 sq ft in area</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>For Sale or For Rent</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Fuel Price</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>SP</td>
<td>SP</td>
<td>N</td>
<td>N</td>
</tr>
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<td>Real Estate</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Special Event – T</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Subdivision Entrance</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Ground</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
</tr>
<tr>
<td>Menu Boards</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>SP</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Political</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>
### 168.10 SETBACK AND HEIGHT REQUIREMENTS FOR SIGNS IN ALL ZONING DISTRICTS

The following table refers to the signage setback requirements in all zoning districts.

<table>
<thead>
<tr>
<th>Zoning Symbol</th>
<th>Min. Front Yard (feet)</th>
<th>Min. Side Yard (feet)</th>
<th>Min. Rear Yard (feet)</th>
<th>Maximum Height (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AG: Agricultural</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>9 RS: Single Family Residential</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>44 RS: Single Family Residential</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>3 RM: Multi-Family Residential</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>4 RM: Multi-Family Residential</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>5 RM: Multi-Family Residential</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>RH: Mobile Home Park Residential (Mobile home converted to real estate)</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>C1: Central Commercial Business</td>
<td>None except if a front yard is provided, it shall be a minimum of 3 feet</td>
<td>None except if a side yard is provided, it shall be a minimum of 1 feet</td>
<td>None except if a rear yard is provided, it shall be a minimum of 3 feet</td>
<td>35</td>
</tr>
<tr>
<td>C1A: Light Commercial</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>C2: Highway Commercial</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>M1: Light Industrial</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>M2: Heavy Industrial</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>CN: Conservation/Public Use</td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>35</td>
</tr>
</tbody>
</table>

In no event shall a sign be located within a City owned easement, drainage easement or within right of way.
168.11 MAINTENANCE OF SIGNS. All signs, with the exception of temporary signs, shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed and the surrounding area restored to a condition free from refuse and rubbish within sixty (60) days of the end of use. If signs are not removed within this time limit, the City will remove the sign at the owner's expense.

168.12 UNSAFE, UNLAWFUL AND ABANDONED SIGNS.

1. Unsafe Signs, Correction of Deficiency. If the Building Official finds that any sign regulated herein is unsafe or unsecured, a hazard to the public, the Building Official shall promptly give written notice by mail or personal service to the permit holder thereof or to the owner of premises on which the sign is located. If the permit holder or owner fails to remove or alter the structure so as to comply with the standards herein set forth within forty-eight (48) hours after such notice, such sign may be removed or altered to comply by the Building Official at the expense of the permit holder or owner of the property upon which it is located. However, if the owner of the sign has promptly ordered the necessary parts to repair the sign and has not received them or has promptly ordered the repair work done by an authorized erector and the erector has failed to respond within the forty-eight (48) hour period, then a further extension of time may be granted upon a written statement that such delay is not the result of any act of the permit holder or owner of the premises.

2. Unlawful Signs, Correction of Deficiency. If the Building Official shall find that any sign regulated herein has been maintained, constructed, or erected in violation of this chapter or any other provisions, he/she shall promptly give written notice to the owner of the premises on which the sign is located. If the owner fails to remove or alter the structure so as to comply with the standards herein set forth within forty-eight (48) hours after such notice by mail or personal service to the permit holder thereof or to the owner of the premises on which the sign is located, such sign may be removed or altered to comply by the Building Official at the expense of the owner of the property upon which it is located. The Building Official may refuse to issue a permit to any permit holder or owner who refuses to pay costs so assessed provided such authority is confined to the premises where the violation occurred.

3. Abandoned Signs. Any abandoned sign or part of a sign including but not limited to the following: a sign left blank, or having significant portions of letters, words, or other copy missing; an on-premises sign which advertises goods or services no longer available on
the premises; an off-premises sign which advertises goods or services no longer available, or any sign that advertises an event or purpose that has passed or no longer applies, remaining in place for a period of 90 days or more shall be considered abandoned. Any abandoned sign now or hereafter existing shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which such sign may be found within 30 days from the date of written notification from the Building Official stating the reasons therefor. Should the sign owner or owner’s authorized agent fail to respond in a timely manner to the notification, the Building Official is hereby authorized to cause removal of such sign, and any expense thereto shall be paid by the owner of the building or structure to which such sign is attached.

168.13 APPEALS.

1. Notice for Unsafe, Unlawful or Abandoned Sign. If a notice for an unsafe, unlawful or abandoned sign is not complied with and is not appealed, or if an appeal is made and is denied, the City is authorized to cause removal of such sign structure, and any expense incident thereto shall be paid to the City by the owner of the sign or of the land, building or structure on which such sign is located. The written notice shall provide a minimum of 30 days following its reception for removal of the subject sign and/or sign structure. The notice shall also provide a minimum time of 15 days from reception of the notice for an appeal to be filed with the City Council. However, if the notice involves a sign which is creating an unsafe or hazardous condition, is in violation of this Sign Regulation Code or involves a temporary, political, or any other sign of a like non-permanent nature, other than a legal non-conforming portable sign, then the notice shall provide a maximum of forty-eight (48) hours for removal or for filing an appeal.

2. Appeal for All Other Signs. Any sign which was installed in conformance with the regulations then in effect but made non-conforming by the provisions of this chapter may appeal to the City Council for extension of time for removal if in the opinion of the sign owner the removal of the sign would create an undue hardship or substantial loss. It shall be the responsibility of the owner to show just cause for a time extension based upon evidence submitted by the owner that the specified time for removal was not adequate. Based on the evidence presented, the City Council shall determine whether such a time extension shall be granted and how long such extension shall be. However, no sign shall be granted more than one time extension and no
such extension shall be for longer than the minimum time deemed necessary for removal.

168.14 INSPECTIONS.

1. Inspections Required. All construction or work for which a permit is required shall be subject to inspection by the Building Official.

2. City Codes and Ordinances Supersede Inspections. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other City ordinances. Inspections presuming to give authority to violate or cancel the provisions of this Sign Regulation Code or other City ordinances shall not be valid.

3. Work to Remain Accessible. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for the inspection purposes and to schedule, and be present for, the required inspections. All such construction or work including footings and foundations (structural and location), electrical connections, etc. shall remain accessible and exposed for inspection until approved. Neither the Building Official nor the City shall be liable for any expense entailed in the removal or replacement of any material required to allow inspection.

4. Maintenance and Safety Inspections. The Building Official may cause to be inspected from time to time as he/she deems necessary, any sign regulated by this chapter for the purpose of ascertaining whether the same is secure, and whether it is in need of removal or repair and complies with this chapter.

(Ch. 168 – Ord. 4 – Dec. 18 Supp.)
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USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances was No. 163, we would suggest that the first ordinance passed changing, adding to or deleting from the Code be assigned the number 164; the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.
RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances, and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:
ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ____________, IOWA, ____ BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of ____________, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of ____________, Iowa, ____ is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of eight o’clock (8:00) a.m. and eight o’clock (8:00) p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.
Passed by the Council the ___ day of ________________, ____, and approved this ___ day of ________________, ____.

________________________________
Mayor

ATTEST:

__________________________________
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of ________________, ____.  

__________________________________
City Clerk
DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ____________, IOWA, ____, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of ____________, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of ____________, Iowa, ____, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of ________________, ____, and approved this ___ day of ________________, ____.  

______________________________
Mayor

ATTEST:

______________________________
City Clerk

I certify that the foregoing was published as Ordinance No.___ on the ___ day of ________________, ____.  

______________________________
City Clerk
MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted or changed as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ________________, IOWA, ____, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of ________________, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of ________________, Iowa, ____, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars ($10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of ________________, ____, and approved this ___ day of ________________, ____.  

_________________________________ Mayor

ATTEST:

_________________________________ City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of ________________, ____.  

_________________________________ City Clerk
ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These ordinances include ordinances (1) establishing grades of streets or sidewalks, (2) vacating streets or alleys, (3) authorizing the issuance of bonds and (4) zoning map ordinances.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ___

AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO (2) RAILROAD ADDITION TO ____________, IOWA

Be It Enacted by the City Council of the City of ____________, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to ____________, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.
Passed by the Council the ___ day of ________________, ____, and approved this ___ day of ________________, ____.

____________________________________
Mayor

ATTEST:

_______________________________
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___

day of ________________, ____.

____________________________________
City Clerk

These ordinances should be numbered in the same numerical sequence as any
other amending ordinance and placed in their proper sequence in the ordinance
book.
SUGGESTED FORM

DANGEROUS BUILDINGS

FIRST NOTICE

TO: (Name and address of owner, agent or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: ____________________________

City of ________________________, Iowa

By: ____________________________________
    (enforcement officer)
TO:  (Name and address of the owner, agent or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of __________, Iowa, will meet on the ___ day of ___________________, ____, at ___ o’clock _m. in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as ________________________, constitutes a nuisance pursuant to Chapter (145) of the Code of Ordinances of _______________, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: ______________________

City of ______________________, Iowa

By: ________________________________
   (enforcement officer)
BE IT RESOLVED, by the City Council of the City of __________, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of ________________, ____, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of notice upon the said (name of owner or agent); and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council;

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate;

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or his agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon him; and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above; and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.
Moved by _____________________ to adopt.

Adopted this ____ day of ___________________, ____.

___________________________________
Mayor

ATTEST:

___________________________________
City Clerk

**Note:** It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.
SUGGESTED FORM

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _________________________

City of ____________________, Iowa

By: _____________________________________
   (designate officer initiating notice)
NOTICE

REQUIRED SEWER CONNECTION

TO: ______________________________________
    (Name)
________________________________________
    (Street Address)
________________________________________, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within ______ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

DESCRIPTION OF PROPERTY

_______________________________________________________________
_______________________________________________________________
_______________________________________________________________

The nearest public sewer line within _________________ (____) feet of the above described property is located
_______________________________________________________________
_______________________________________________________________
_______________________________________________________________

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date Of Notice:  ________________________
City Of ___________________, Iowa
By:  _________________________________,   _________________________
    (Name)                                         (Title)
NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: __________________________________________
   (Name)
   __________________________________________
   (Street Address)
   _____________________________, Iowa

You are hereby notified that the City Council of ___________, Iowa, will meet on the ___ day of _________________, ____, at _____ o’clock __m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

DESCRIPTION OF PROPERTY

________________________________________________________________
________________________________________________________________
________________________________________________________________

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date Of Notice: _________________________
City Of ___________________, Iowa

By: _________________________________, ______________________
   (Name) (Title)
RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of _________, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _________, ____, on ________________________________,

(Name of Property Owner)

through ________________________________, Agent,

(Agent’s Name or “None”)

to make connection of the property described as

__________________________
__________________________
__________________________

__________________________

to the public sanitary sewer located

____________

within _____ (____) days from service of notice upon said owner or agent;

and,

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;
NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or his agent, ________________________________

(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within ______ days after the service of this ORDER upon him; and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and

BE IT FURTHER RESOLVED, that in the event the owner, or agent, ________________________________, fails to make such

(Name of Owner or Agent)
connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner _________________ ________________, as provided by law.

(Owner’s Name)
_______________________________, (Address)
Moved by ______________________ to adopt.

Seconded by ________________________.

AYES: ________________________

NAYS: ________________________

Resolution approved this ___ day of ____________________, ____.

_____________________________
Mayor

ATTEST:

_____________________________
City Clerk