

ORDINANCE NO. 609

AN ORDINANCE ADOPTING THE UPDATED "CODE OF ORDINANCE" OF THE CITY OF HOSPERS, IOWA, 2019"

SECTION 1: Purpose. The purpose of this adopting Ordinance is to enable the City of Hospers, Iowa, to comply with the provisions of Section 362.3 and 380.8, Code of Iowa.

SECTION 2: Adoption. The City of Hospers, Iowa, hereby adopts the 2019 Code of Ordinances for the City of Hospers, Iowa, pursuant to published notice and following public hearing on July 15, 2019, so required by Sections 362.3 and 380.8, Code of Iowa.

SECTION 3: Content. All ordinances or parts thereof in force on August 14, 2019, and not contained in the "Code of Ordinances of the City of Hospers, Iowa, 2019," are hereby repealed from and after August 14, 2019, except as hereinafter provided.

That the repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the 14th day of August, 2019; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authorizing the issuance of any bonds of said City or any evidence of said City's indebtedness or any contract or obligation assumed by resolutions of the Council not in conflict or inconsistent with the provisions of the "City of Hospers, 2019 Code of Ordinances"; nor shall it affect any other right of franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any ordinance naming, establishing, relocation and vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance levying and imposing taxes; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any subdivision ordinances, nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the 14th day of August, 2019.

The 2019 Code of Ordinances shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

If the Code of Ordinances includes an ordinance which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10, Code of Iowa, the City Clerk shall also keep on file, with the official copy of the City Code, a copy of such standard code.

SECTION 4. Format. The 2019 Code of Ordinances of the City of Hospers, Iowa shall be compiled in loose-leaf format.

SECTION 5. Official Copy. The City Clerk shall be responsible for the compilation, organization, and maintenance of the official 2019 Code of Ordinances of

the City of Hospers, Iowa, and shall keep the official copy on file in the office of the City Clerk.

SECTION 6. Public Copies. Additional copies of the 2019 Code of Ordinances shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the 2019 Code of Ordinances shall be kept on file in the City Clerk's office for public inspection.

SECTION 7. Additional Ordinances. All ordinances, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the 2019 Code of Ordinances. This section does not apply to grade ordinances, bond ordinances, subdivision ordinances, naming streets and vacating streets and alleys.

SECTION 8. Effective Date. This Ordinance, after its passage and publication, as required by law, shall be effective as of the 14th day of August, 2019.

Hereupon, the Mayor announced the vote and declared this ordinance was duly adopted by the Council on August 5, 2019.


Dan Dykstra, Mayor

ATTEST:



Heidi Kramer, City Clerk

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TITLE I

TITLE I - ADMINISTRATIVE CODE

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 1 - MUNICIPAL CODE

- 1.01 TITLE. These ordinances will be known and cited as the Municipal Code of Hospers, Iowa.
- 1.02 DEFINITIONS. Terms used within this Municipal Code shall have the meanings defined below, unless specifically defined otherwise.
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 Hospers, Iowa.
 3. "City Code" or "Municipal Code" means the current Municipal Code of the City of Hospers, Iowa.
 4. "Clerk" means the City Clerk of Hospers, Iowa.
 5. "Code" means the specific chapter in which a specific subject is covered and bears a descriptive title word.
 6. "Council" means the City Council of Hospers, Iowa.
 7. "County" means Sioux County, Iowa.
 8. "Measure" means an ordinance, resolution, amendment or motion.
 9. "Month" means a calendar month.
 10. "Oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be the equivalent to the words "swear" and "sworn".
 11. "Occupant, Tenant" applied to a building or land, shall include any person who inhabits the whole or part of such building or land, whether alone or with others.
 12. "Ordinances" means the ordinances of the City of Hospers, as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
 13. "Peace Officers", sometimes designated "law enforcement officers", include:

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- a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
 - b. Marshals and police officers of cities.
 - c. Peace officer members of the department of public safety as defined in Code of Iowa Chapter 80.
 - d. Conservation officers as authorized by section 456A.13, Code of Iowa.
 - e. Such employees of the department of transportation as are designated "peace officers" by resolution of the department under section Code of Iowa, Section 321.477.
 - f. Such persons as may be otherwise so designated by law.
14. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or City.
15. "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 but does not include a governmental body.
16. "Property" shall include real property, and tangible, and intangible personal property unless clearly indicated otherwise.
17. "Property Owner" means a person owning private/real property in the City as shown by the County's Auditor's plats of the City.
18. "Public Place" includes but is not restricted to any City-owned space or property, either open or enclosed.
19. "Public Property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
20. "Sidewalk" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.
21. "State" means the State of Iowa.
22. "Statutes, Laws" means the latest edition of the Code of Iowa as amended.
23. "Street" means and includes any public way, highway, street, avenue, boulevard or other public thoroughfare, and includes the entire width between property lines.

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- 1.03 RULES OF CONSTRUCTION. In the construction of the Municipal Code, the following rules shall be observed:
1. Tense: words used in the present tense include the future.
 2. May: grants a power.
 3. Must: states a requirement.
 4. Shall or Will imposes a duty.
 5. Gender: masculine gender shall include the feminine and neuter genders.
 6. Interpretation: all general provisions.
 7. The singular includes the plural, and the plural includes the singular.
- 1.04 AMENDMENTS. An amendment to an ordinance or to a code of ordinances must specifically identify the ordinance or code, or the section, subsection, or paragraph to be amended, and must set forth the ordinance, code, section, subsection, or paragraph as amended, which action is deemed to be a repeal of the previous ordinance, code, section, subsection, or paragraph amended.
(Code of Iowa, Sec. 380.2)
- 1.05 ALTERING CODE. It is unlawful for any person to change or amend by additions or deletions any part or portion of the Municipal Code, or to insert or delete pages, or portions thereof, or to alter or tamper with the Municipal Code in any manner which will cause the law of the City to be misrepresented.
- 1.06 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 criminal penalty surcharge required by Code of Iowa section 911.1 shall be added to a city fine and is not a part of the city's penalty.
(Code of Iowa, Sec. 364.3(2) and 903.1(1a))
- 1.07 SEVERABILITY. If any section, provision, or part of the Municipal Code is judged invalid or unconstitutional, such judgment will not affect the validity of the Municipal Code as a whole or any section, provision, or part not judged invalid or unconstitutional.
- 1.08 CATCHLINES AND NOTES. The catchlines of the several sections of the city code, titles, headings (chapter, division, article, title, 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 city code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of the section.
- 1.09 SEPARATE OFFENSE. If a violation of this code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day.

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- 1.10 SINGLE OFFENSE. In cases where action or inaction is made punishable by more than one provision of this code, the city may select the provision or provisions of this code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1.09 of this chapter.
- 1.11 LIABILITY OF OFFICERS. No provision of this code designating the duties of any officer or employee of the city shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the council to impose such a penalty is specifically and clearly expressed in this code.
- 1.12 LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES. A violation of this code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a municipal infraction charge, or other civil remedies provided in other sections of this code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies.
- 1.13 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.
- 1.14 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.
- 1.15 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.

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- 1.16 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.
- 1.17 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)

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 2 - BOUNDARIES

- 2.01 CORPORATE LIMITS. The corporate limits of the City of Hospers are described as follows:

Commencing at the Northwest corner of the Southeast Quarter (S.E. 1/4) of Section Three (3) in Township ninety-five (T95) North Range forty-three (R43W) West of the 5th P.M. Thence running East to the Northeast Corner of the Southeast Quarter of said Section three (3) thence South on the section line one hundred and eighty (180) rods, thence running West one hundred and sixty (160) rods, thence North to the half section line to the place of beginning as described above, all in the county of Sioux.

Also, pursuant to petition and acceptance by resolution of the council:

A tract in the Northeast Quarter (NE 1/4) of Section Three (3), Township Ninety-five North (T95), Range forty-three West (R43W) of the Fifth Principal Meridian (5th P.M.), Sioux County, Iowa, lying Easterly of and adjacent to the Right of Way of Iowa Highway (60).

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 3 - CHARTER

- 3.01 PURPOSE. The purpose of this article is to provide for a Charter incorporating the form of government existing in the City of Hospers, Iowa.
- 3.02 CHARTER. This article may be referred to as the Charter of the City of Hospers, Iowa.
- 3.03 FORM OF GOVERNMENT. The City of Hospers, Iowa, shall have the mayor-council form of government.
(Code of Iowa, Sec. 372.4)
- 3.04 POWERS AND DUTIES. The council, the mayor, and other city officers have such powers and perform such duties as authorized or required by State law and by the ordinances, resolutions, rules, and regulations of the City of Hospers, Iowa.
- 3.05 NUMBER AND TERM OF COUNCIL. The council consists of five (5) council members elected at large for terms of four (4) years.
(Code of Iowa, Sec. 376.2)
- 3.06 TERM OF MAYOR. The mayor is elected for a term of four (4) years.
(Code of Iowa, 376.2)
- 3.07 COPIES ON FILE. The clerk shall keep an official copy of this Charter on file with the official records of the city clerk and make available copies at the clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 4 - CORPORATE SEAL

- 4.01 SEAL AND CUSTODY. The council shall provide a seal, in the center of which shall be the words "Seal" and around the margin the words "Incorporated City of Hospers", and the same is hereby declared to be the corporate seal. The clerk shall keep the corporate seal in his/her charge.
- 4.02 USE. The corporate seal shall be attached to all transcripts, orders, and certificates which it may be necessary or proper to authenticate.

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 5 - ELECTIONS

- 5.01 MUNICIPAL ELECTION. The regular municipal election shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.
(Code of Iowa, Sec. 376.1)
- 5.02 TERMS. Terms of elected officers begin at noon on the first day in January which is not a Sunday or a legal holiday following their election.
(Code of Iowa, Sec. 376.2)
- 5.03 NOMINATIONS. Candidates for elective city offices must be nominated as provided in (Sections 376.4 to 376.9) or (Chapter 44 or 45) of the Code of Iowa.
(Code of Iowa, Sec. 376.3)
- 5.04 PERSONS ELECTED IN CITY ELECTIONS.
(Code of Iowa, Sec. 376.8)
1. In a regular city election held for a city where the council has chosen to have nominations made in the manner provided by Chapter 44 or 45 of the Code of Iowa, 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.
- 5.05 TIE VOTE. In case of a tie vote resulting in failure of one candidate to receive a majority vote, the tie shall be determined by lot by the Board of Canvassers.
(Code of Iowa, Sec. 43.75)
- 5.06 CONTEST. A nomination or election to an office may be contested as provided in the Code of Iowa, except the Statement of Intent to Contest must be filed with the city clerk within ten (10) days after the nomination or election. At the trial of a nomination or election, the mayor is presiding officer except when the mayor's nomination or election is contested, in which case the council shall elect one of its members to serve as presiding officer.
(Code of Iowa, Sec. 376.10)
- 5.07 OATHS. Each officer, elective, or appointive, before entering upon his/her duties, shall qualify by taking the prescribed oath and giving a bond when required before noon of the second secular day in January of the first year of the term of which such officers was elected.
(Code of Iowa, Sec. 63.1)

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1. PRESCRIBED OATH: 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 Hospers, Iowa, as now or hereinafter required by law.
(Code of Iowa, Sec. 63.10)
 2. OFFICERS EMPOWERED TO ADMINISTER OATHS: The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:
 - A. Mayor,
 - B. Mayor Pro Tem
 - C. Clerk,
 - D. Members of all boards, commissions, or bodies created by law.(Code of Iowa, Sec. 63A.2)
- 5.08 SURETY BONDS. The following shall apply to surety bonds of municipal officers:
1. CONDITIONS. All city officers and employees, except as otherwise provided, shall be bonded under a blanket bond in accordance with the conditions stated in the Code of Iowa.
(Code of Iowa, Sec. 64.2)
 2. BOND NOT REQUIRED. Bonds shall not be required of council members.
(Code of Iowa, Sec. 64.1A)
 3. REQUIRED. The Council shall provide by resolution for a surety bond or blanket position bond running the City and covering the Mayor, Clerk, Mayor Pro Tem and such officers and employees as may be necessary and advisable.
(Code of Iowa, Sec. 64.13)
 4. BOND APPROVED. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)
 5. BONDS FILED. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23(6))
 6. 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 and appointive.
(Code of Iowa, Sec. 64.24(3))

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5.09 UNAVOIDABLE CASUALTY. When on account of sickness, inclement weather, or unavoidable absence or casualty an officer has been prevented from qualifying within the prescribed time, the officer may do so within ten days after that fixed time.

(Code of Iowa, Sec. 63.3)

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:

1. APPOINTMENT. By appointment by the remaining members of the council, except that if the remaining members do not constitute a quorum of the full membership, section 2" shall be followed. The appointment shall be made within sixty days after the vacancy occurs and shall be for the period until the next regular city election described in Code of Iowa, Section 376.1, unless there is an intervening special election for that city, in which event the election for the office shall be placed on the ballot at such special election. If the council fails to make an appointment within sixty days as required by this subsection, the city clerk shall give notice of the vacancy to the county commissioner and the county commissioner shall call a special election to fill the vacancy at the earliest practicable date but no fewer than thirty-two days after the notice is received by the county commissioner.

- a. If the council chooses to proceed under this paragraph, it shall publish notice in the manner prescribed by Code of Iowa, Section 362.3, stating that the council intends to fill the vacancy by appointment but that the electors of the city or ward, as the case may be, have the right to file a petition requiring that the vacancy be filled by a special election. The council may publish notice in advance if an elected official submits a resignation to take effect at a future date. The council may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, there is filed with the city clerk a petition which requests a special election to fill the vacancy, an appointment to fill the vacancy is temporary and the council shall call a special election to fill the vacancy permanently, under section "2a". The number of signatures of eligible electors of a city for a valid petition shall be determined as follows:
- b. For a city with a population of ten thousand or less, at least two hundred signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.
- c. The minimum number of signatures for a valid petition pursuant to subparagraph (b) shall not be fewer than ten. In determining the minimum number of signatures required, if at the last preceding election more than one position was to be filled for the office in which the vacancy exists, the number of voters who voted for candidates for the office shall be determined by dividing the total number of votes cast for the office by the number of seats to

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be filled.

2. SPECIAL ELECTION. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph “a”, the special election may be held concurrently with any pending election as provided by Code of Iowa, section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called by the council at the earliest practicable date. The council shall give the county commissioner at least thirty-two days’ written notice of the date chosen for the special election. The council of a city where a primary election may be required shall give the county commissioner at least sixty days’ written notice of the date chosen for the special election. A special election held under this subsection is subject to Code of Iowa, sections 376.4 through 376.11, but the dates for actions in relation to the special election shall be calculated with regard to the date for which the special election is called. However, a nomination petition must be filed not less than twenty-five days before the date of the special election and, where a primary election may be required, a nomination petition must be filed not less than fifty-three days before the date of the special election.
 - a. If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called by the county commissioner at the earliest practicable date. The remaining council members shall give notice to the county commissioner of the absence of a quorum. If there are no remaining council members, the city clerk shall give notice to the county commissioner of the absence of a council. If the office of city clerk is vacant, the city attorney shall give notice to the county commissioner of the absence of a clerk and a council. Notice of the need for a special election shall be given under this paragraph by the end of the following business day.

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CHAPTER 1: GENERAL ORGANIZATION

ARTICLE 6 - OFFICERS AND EMPLOYEES

- 6.01 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council, unless contrary to State law or City charter.
- 6.02 OFFICERS TO BE APPOINTED. The following appointments shall be made:
1. **CLERK**. The council shall appoint a city clerk to perform duties prescribed by State or City law.
(Code of Iowa, Sec. 372.13(3))
 2. **TREASURER**. The council shall appoint a treasurer to perform duties prescribed by State or City law.
 3. **POLICE CHIEF**. The mayor may appoint a police chief.
(Code of Iowa, Sec. 372.4)
 4. **MAYOR PRO TEM**. The mayor shall appoint a council member as mayor pro tem.
(Code of Iowa, Sec. 372.4)
 5. **CITY ATTORNEY**. The council shall appoint a city attorney to perform duties as prescribed by State or City laws.
 6. **COUNCIL STANDING COMMITTEES**. The mayor shall appoint members to council standing committees.
 7. **SUPERINTENDENT OF PUBLIC WORKS**. The council shall appoint a city superintendent of public works to perform duties as prescribed by State or City laws.
 8. **OTHER OFFICERS AND EMPLOYEES**. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.
(Code of Iowa, Sec. 372.13(4) & 372.4)
- 6.03 BOOKS AND RECORDS. The public has the right, upon request, to examine, copy, or publish all books and records required to be kept by law or ordinance, unless the records are required to be kept confidential or this right is limited by other provisions in the Code of Iowa.
(Code of Iowa, Sec. 22.7)

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6.04 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to his/her successor in office all books, papers, records, documents and property in his/her possession pertaining to his/her office.

6.05 CONFLICT OF INTEREST. A measure voted upon is not invalid by reason of conflict of interest in an officer of a city, unless the vote of the officer was decisive to passage of the measure. If a specific majority or unanimous vote of a municipal body is required by statute, the majority or vote must be computed on the basis of the number of officers not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purposes of this section, the statement of an officer that the officer declines to vote by reason of conflict of interest is conclusive and must be entered of record. 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.

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(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 by a City having a population of two thousand five hundred or less, which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars 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))

- 6.06 RESIGNATIONS. Resignations may be made by all council members and officers to the clerk or mayor.

(Code of Iowa, Sec. 69.4(5))

- 6.07 NON-ELIGIBILITY FOR REAPPOINTMENT. 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 for the office has been increased.

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

- 6.08 VACANCIES. A vacancy in an elective office during a term of office shall be filled by the council within forty (40) days after the vacancy occurs, or as otherwise provided by law.

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

- 6.09 REMOVAL OF APPOINTED OFFICERS. Except as otherwise provided by law, all persons appointed to city office 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 with the clerk and a copy shall be sent by certified mail to the person removed. Upon request filed with the clerk within thirty (30) days of the date of mailing the copy, the removed person shall be granted a public hearing before the council on all

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issues connected with the removal. The hearing shall be held within thirty (30) days of the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

- 6.10 POSITIONS COMBINED. The powers and duties of an appointed office or employment may be delegated to any other officer or employee or may be combined with each or any other office or position by resolution passed by a majority vote of the entire council.

(Code of Iowa, Sec. 63.3)

- 6.11 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:

(Code of Iowa, Sec. 21.4)

1. NOTICE OF MEETING (PUBLIC NOTICE) Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4)

- 2.a. TWENTY-FOUR HOUR NOTICE. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.

- b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

3. Subsection 1 does not apply to any of the following:

- a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.

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- b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
- 4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
- 5. 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)
- 6. 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)
- 7. 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. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:
(Code of Iowa, Sec. 21.5)
 - a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
 - b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
 - c. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
 - d. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.

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- e. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- f. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- g. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- h. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.
 - 1. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.
 - 2. This section shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this section applies and which is contained in such a record.
- i. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.
- j. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.

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- k. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.
 - l. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.
8. Cameras and Recorders. The public may use cameras or recording devices at any open session.
(Code of Iowa, Sec. 21.7)
9. 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)
- 6.12 GIFTS. Except as otherwise provided in Chapter 68B of the Code of Iowa, a public official, public employee or candidate, or that person's immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a "restricted donor" as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.
(Code of Iowa, Sec. 68B.22)
- 6.13 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use City property owned or leased by the City for any private purpose and for personal gain, to the detriment of the City.
(Code of Iowa, Sec. 721.2(5))

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CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 7 - MAYOR

7.01 POWERS AND DUTIES. The powers and duties of the mayor shall be as follows:
(Code of Iowa, Sec. 372.14)

1. **SUPERVISE DEPARTMENT HEADS.** Supervise and give direction to all city department heads concerning departmental functions. He/she may examine all department functions and records and call for special reports from department heads at any time.
2. **PRESIDING OFFICER.** Act as presiding officer at all regular and special council meetings. He/she may call special meetings of the council when necessary to the interests of the city.
3. **ACTION ON ORDINANCE.** May sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. He/she must provide a written explanation for a veto on an ordinance, amendment or resolution.
(Code of Iowa, Sec. 380.5)
4. **REPORTS.** Make oral and written reports to the council at the first meeting of every month which concern municipal affairs, department, and recommendations suitable for council action.
5. **ANNUAL BUDGET.** Prepare and submit annually to the council an itemized budget of revenues and expenditures.
6. **CONTRACTS.** Sign all contracts on behalf of the city when authorized by the council.
7. **REPRESENT CITY.** Represent the city in all negotiations legally entered, unless this duty is otherwise delegated by law or ordinance.
8. **SECURE SERVICES.** Secure special or professional services not available to the city, upon order of the council.
9. **AUTHORIZE LICENSES AND PERMITS.** Sign all licenses and permits granted by the council, except those legally designated to be issued by another municipal officer.
10. **REVOKE LICENSES AND PERMITS.** Under council authorization, revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.

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11. MAYOR PRO TEM. Designate one member of the council as mayor pro tem.
 12. ABSENTEE OFFICER. Provide that the duties of an absentee officer are carried on during the officer's absence.
 13. REMOVE NUISANCES. Order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. The order shall be in writing and carried out by a peace officer.
 14. PROCLAMATION OF EMERGENCY. Have the authority to take command of the police and govern the City by proclamation, upon making a determination that the 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))
- 7.02 VOTING. The mayor is not a member of the council and may not vote as a member of the council.
(Code of Iowa, Sec. 372.4)
- 7.03 COMPENSATION. The salary of the mayor shall be seven hundred fifty dollars (\$750.00) per year, plus ten dollars (\$10.00) per meeting. Effective January 1, 2020, the salary of the Mayor shall be one thousand dollars (\$1,000.00), plus twenty-five dollars (\$25.00) per meeting.
(Code of Iowa, Sec. 372.13(8))
- 7.04 APPOINTMENTS. The mayor shall appoint the following officials:
(Code of Iowa, Sec. 372.4)
1. Mayor Pro Tem.
 2. Police Chief (If City Has Police Department)

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CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 8 - MAYOR PRO TEM

8.01 POWERS AND DUTIES. The duties of the mayor pro tem shall be as follows:
(Code of Iowa, Sec. 372.14(3))

1. VICE-PRESIDENT. Service as vice-president of the council.
2. PERFORM IN MAYOR'S ABSENCE. Perform the duties of the mayor in case of absence or inability of the mayor to perform his/her duties.
3. LIMITED POWER. Shall not have power to employ or discharge officers or employees that the Mayor has the power to appoint, employ, or discharge without approval of the Council. Official actions of the Mayor Pro Tem when the Mayor is absent or unable to act are legal and binding to the same extent as if done by the Mayor. The Mayor pro tem retains all of the powers of a Council member.
4. VOTING. May vote as a member of the council.

8.02 COMPENSATION. If the mayor pro tem performs the duties of the mayor during his/her absence or disability for a continuous period of fifteen (15) days or more, the mayor pro tem shall be paid for that period such compensation as determined by the council, based upon the Mayor Pro Tem's performance of the mayor's duties and upon the compensation of the mayor.
(Code of Iowa, Sec. 372.13(8))

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CHAPTER 3: ADMINISTRATIVE CODE - LEGISLATIVE

ARTICLE 9 - COUNCIL

9.01 POWERS AND DUTIES. The powers and duties of the council shall be as follows:

1. GENERAL. All powers of the city are vested in the council unless otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2(1))
2. FUNDS. Apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof.
(Code of Iowa, Sec. 384.16)
3. PUBLIC IMPROVEMENTS. Make all orders for the doing of public improvements, and award contracts for construction of any public improvements.
4. CONTRACTS. Make or authorize all contracts. No contract shall bind or obligate upon the city unless authorized by the council and be in writing. Contracts authorized by resolution shall be drawn or approved by the city attorney before they are entered into. Any contracts based upon bidding would require bidding according to the Code of Iowa requirements.
(Code of Iowa, Sec. 384.95-384.101)
5. OFFICERS AND EMPLOYEES. Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.
(Code of Iowa, Sec. 372.13(4 & 8))
6. PRESCRIBE COMPENSATION. 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 an ordinance changing the compensation of the mayor, council members, or other elected officers 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. By resolution the council shall prescribe the compensation of appointed city officers and employees.
(Code of Iowa, Sec. 372.13 (8))
7. RECORDS. The council shall maintain records of its proceedings.
(Code of Iowa, Sec. 372.13(5))

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9.02 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:

1. **APPROVED ACTION BY COUNCIL.** Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of all the council members. A resolution must be adopted to spend public funds in excess of one-hundred thousand dollars (\$100,000) on any one project, or to accept public improvements and facilities upon their completion, and requires an affirmative vote of not less than a majority of all the council members. Each councilperson's vote on an ordinance, amendment, or resolution must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

As used in this chapter, "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.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

(Code of Iowa, Sec. 380.4)

2. **OVERRIDING MAYOR'S VETO.** Within thirty (30) days after the mayor's veto, the council may repass the ordinance or resolution by a vote of not less than two-thirds (2/3) of the council members; and the ordinance or resolution becomes effective upon repassage and publication.

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

3. **MEASURES BECOME EFFECTIVE.** Measures passed by the council, other than motions, become effective in one of the following ways:

- a. If the mayor signs the measure, a resolution becomes effective immediately upon signing; and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

(Code of Iowa, Sec. 380.6(1))

- b. If the mayor vetoes a measure and the council repasses the same measure after the mayor's veto, a resolution becomes effective immediately upon repassage; and an ordinance or amendment becomes a law when

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published, unless a subsequent effective date is provided within the measure.

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

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

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

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

(Code of Iowa, Sec. 380.6)

9.03 COUNCIL COMMITTEES. The mayor shall appoint with approval of the council any council standing committees established by council resolution, and any special committees of the council. The standing committees shall consist of three council members; the first named shall be chairman. The mayor shall name the chairman of special committees and such other members as he/she deems appropriate. The mayor shall be an ex-official member of each committee. The mayor shall appoint the standing committees at the first meeting in January following each municipal election. Special committees may be named by the mayor when deemed useful to the city.

9.04 MEETINGS. Meetings of the council shall be as follows:

- 1. REGULAR MEETINGS. The regular meetings of the Council shall be held on the first Monday of each month at 7:00 p.m. and on the third Monday of each month at 5:30 p.m.
- 2. SPECIAL MEETINGS. Special meetings shall be held upon call of the mayor or upon the written request of a majority of the members of the council submitted to the clerk. Notice of a special meeting shall specify the date, time, place, and subject of the meeting; and such notice shall be given personally or left at the usual place of residence of each member of the council. A record of the service of notice shall be maintained by the clerk.

(Code of Iowa, Sec. 21.4)

- 3. OPEN MEETINGS. All meetings of the council, standing committees and city boards or commissions, or special committees shall comply with the open meeting laws of Iowa.

(Code of Iowa, Chapter 21)

- 4. QUORUM. A simple majority of all councilmen is a quorum.

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

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5. RULES OF PROCEDURE. The council shall determine the rules of its own proceedings by resolution, and the clerk shall keep such rules on file for public inspection.
(Code of Iowa, Sec. 372.13(5))
6. 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)
7. 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 the vote of each member present shall be made public.
(Code of Iowa, Sec. 21.3)
8. CLOSED SESSION. A closed session may be held only by affirmative vote of either two-thirds of the council or all of the members present at the meeting and in accordance with Chapter 21.50f the Iowa Code.
(Code of Iowa, Sec. 21.5)
9. CAMERAS AND RECORDERS. The public may use cameras or recording devices at any open session.
(Code of Iowa Sec. 21.8)
10. 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 Iowa Code.
(Code of Iowa Sec. 21.8)
- 9.05 ELIGIBILITY FOR APPOINTMENT. A councilman is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which he/she is elected.
(Code of Iowa, Sec. 372.13(9))
- 9.06 COMPENSATION. The salary of each council member shall be two hundred fifty dollars (\$250.00) per year and ten dollars (\$10.00) for each official council meeting attended. Effective January 1, 2020, the salary of each council member shall be five hundred dollars (\$500.00) per year and twenty-five dollars (\$25.00) for each official council meeting attended.
(Code of Iowa, Sec. 372.13(8))
- 9.07 TENTATIVE AGENDA. The clerk shall prepare and post a tentative agenda for each meeting at a place, or places, designated by the council, one of which shall be near the place of meeting at the city hall. The posting shall be made at least twenty-four (24) hours before the meeting except as permitted under state law in case of emergencies.

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- 9.08 SERVING AS CHIEF OF VOLUNTEER FIRE DEPARTMENT. If volunteer fire department for the City serves an area with a population of not more than two thousand (2,000) then a council member may also hold the office of chief of the volunteer fire department, provided that no other person who is not a council member is available to hold such office.

(Code of Iowa, Sec. 372.13(10))

- 9.10 GENDER BALANCE. All appointive boards, commissions, and committees shall be gender balanced. No person shall be appointed or reappointed to any board, commission, or committee if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, or committee plus one if the board, commission, or committee is composed of an odd number of members. If the board, commission, or committee is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission or committee they shall consult each other to avoid a violation of this section.

All appointive boards, commissions, and committees of the City, if not otherwise provided by law, shall be gender balanced as provided in this section unless the City has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, or committee in compliance with this section for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this section, the City shall utilize a fair and unbiased method of selecting the best qualified applicants. This section shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance. Gender balance is applicable to appointive boards, commissions, and committees of the City on and after January 1, 2012.

(Code of Iowa, Sec. 69.16A)

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ARTICLE 10 - CITY CLERK

10.01 POWERS AND DUTIES. The powers and duties of the City Clerk shall be as follows:

1. ADMINISTER OATHS. Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 78.2(4))
2. ATTEND MEETINGS. Attend all meetings of the council and its committees.
3. RECORD PROCEEDINGS. Record and preserve a record of meeting proceedings and publish a summary of Council proceedings after each regular or special meeting.
(Code of Iowa, Sec. 380.7(1))
4. ORDINANCES. Publish all ordinances immediately after passage and approval by council and keep an ordinance book authenticating each ordinance and certifying as to the time and manner of publication.
(Code of Iowa, Sec. 380.7(2) & 362.3)
5. RESOLUTIONS. Keep an official resolution record book and enter each resolution therein.
6. COUNCIL COMMUNICATIONS. Keep and date all communications and petitions directed to the council or city and endorse thereon council action taken on matters presented in such documents.
(Code of Iowa, Sec. 372.13(4))
7. CORPORATE SEAL. Affix the corporate seal to those public documents or instruments as directed by the mayor or council or as required by law.
(Code of Iowa, Sec. 380.7(3))
8. ELECTIONS. Accept the nomination petition of a candidate for a city office for filing if on its face it appears to have requisite number of signatures and it is timely filed. He/she shall deliver all nomination petitions to the county commissioner of elections no later than five o'clock p.m. (5 p.m.) on the day following the last day on which nomination petitions can be filed.
(Code of Iowa, Sec. 376.4)
9. ISSUE LICENSES AND PERMITS. Issue all council-approved licenses and permits and keep a record of them showing the date, number, to whom issued, and for what purpose.

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10. OTHER DUTIES. Perform such other duties as specified by council resolution or ordinance.
 11. DEBT SERVICE. Keep a register of all bonds outstanding, and record all payments made of interest and principal.
 12. INVESTMENTS. Advise the council on investments and invest city monies not immediately needed at interest in accordance with council directives and the requirements of Chapters 12B and 12C of the Iowa Code. The City Clerk shall determine the anticipated level of bank deposits for making the depository declaration to the State Treasurer as required by Chapters 12B and 12C of the Iowa Code.
 13. RECORDS. Keep such books as will account for all funds of the city, including any warrants out at interest, and call such warrants at the earliest opportune time.
 14. DEPOSITS. Deposit immediately upon receipt, city monies to be held in his/her custody in council-approved banks for amounts not exceeding the monetary limits authorized by the council.
 15. OTHER DUTIES. Perform such other duties as specified by the council by resolution or ordinance.
- 10.02 COMPENSATION. The City Clerk shall be paid such compensation as specified by resolution of the council.
- 10.03 CHIEF ACCOUNTING OFFICER. The clerk shall be chief accounting officer of the city and:
1. BUDGET ACCOUNTS. Maintain the budgetary accounts required by law and as directed by the council.
 2. BUDGET REPORTS. Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
 3. REVENUES FROM CITY UTILITY. The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited with the City Clerk and kept in a separate account from each other and other funds of the city.
(Code of Iowa, Sec. 384.85)
 4. PAY CLAIMS. Pay all claims against the city only upon council order or other council authorization.
 5. AUTHENTICATE DOCUMENTS. Sign all evidences of indebtedness, coupons, or certificates as required by law.

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(Code of Iowa, Sec. 380.7(3))

6. **BALANCE ACCOUNTS.** Reconcile the bank statements with his/her books and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.

7. **INVESTMENTS.** Invest all idle funds and other funds as directed by the council in accordance with law.

(Code of Iowa, Sec. 453.9)

- 10.04 **CUSTODY OF RECORDS.** The City Clerk shall have custody of all records and documents pertaining to the municipality unless otherwise directed by law or ordinance and:

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

1. **FILE AND RECORD TRANSACTIONS.** File and preserve all receipts, vouchers, and other documents kept or required to be kept so as to prove the validity of every transaction and identity of any person having a beneficial relation thereto.

2. **DESTROY OLD RECORDS.** Destroy all vouchers and minor records over five years old except those specified for retention by law.

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

3. **FURNISH COPIES.** 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 law or 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 are required to be attested by the fixing of the seal.

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

4. **CERTIFY MEASURES.** Certify to the county recorder all ordinances establishing zoning district, building lines, or fire limits, and a plat showing each district, lines, or limits.

(Code of Iowa, Sec. 380.11)

5. **RECORD APPOINTMENTS.** Keep a record of all appointments, notifying all persons appointed by the mayor or council of such appointments and the time of taking office.

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10.05 PUBLICATION. The City 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 the municipal code or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

2. **MANNER OF PUBLICATION**. A publication required by the city code or law must be in a newspaper published at least once weekly and having general circulation in the city.

(Code of Iowa, Sec. 362.3(1)(b))

3. **PUBLICATION OF MINUTES**. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. The list of claims allowed shall show the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the city shall provide at its office upon request an unconsolidated list of all claims allowed. Matters discussed in closed session pursuant to Code of Iowa, Section 21.3 shall not be published until entered on the public minutes. Failure by the clerk to make publication is a simple misdemeanor. The provisions of this subsection are applicable in cities in which a newspaper is published, or in cities of two hundred population or over.

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

10.06 OFFICIAL POSTING LOCATION. Whenever there is to be notice given and no other form of publication is specified by law, the following three locations are officially designated for such notices:

1. City Hall
2. Hospers Post Office
3. American State Bank

10.07 COMPENSATION. The City Clerk shall be paid such compensation as specified by resolution of the council.

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

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ARTICLE 11 - TREASURER

11.01 POWERS AND DUTIES. The treasurer shall have the following powers and duties:

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, including all funds received or held in custody for any board or commission or agency existing in the city created by council or the people.
2. RECONCILIATIONS, REPORTS. Reconcile the bank statements with the city's books, certify monthly to the council the balance of cash and investments of each fund and amounts received and disbursed, and reconcile the Treasurer's books with the City Clerk every month.

11.02 COMPENSATION. The Treasurer shall be paid such compensation as specified by resolution of the council.

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

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 12 - CITY ATTORNEY

12.01 POWERS AND DUTIES. The duties of the city attorney shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. **ATTEND MEETINGS.** Attend those meetings of the council at which he/she is requested to be present.
2. **DRAFTS.** Formulate drafts for contracts, forms, and other writings which may be required for the use of the city upon request.
3. **DOCKET AND RECORD OF OPINIONS.** Keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defended by the city attorney accompanied by all proceedings related to said actions.
4. **LEGAL OPINION.** Give his/her opinion in writing upon all questions of law relating to municipal affairs submitted by the council, the mayor, members of the council individually, municipal boards, or the head of any municipal department upon request.
5. **PREPARE ORDINANCES.** Prepare those ordinances which the council may desire and direct to be prepared and report to the council upon all ordinances before their final passage by the council and publication.
6. **REPRESENT CITY.** Act as attorney for the city in all matters affecting the city's interests and appear on behalf of the city before any court tribunal, commission, or board. He/she shall prosecute or defend all actions and proceedings when so requested by the mayor or the council.
7. **REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.** Not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. He/she shall, however, if directed by the council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of said office or employment.
8. **CERTIFY BONDS.** 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.

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9. REVIEW CONTRACTS AND ORDINANCES. Make a written recommendation to the council and interested department heads concerning all contracts, documents, authorized power of the city officer, and ordinances submitted to him/her or coming under his/her notice before they go into effect.
- 12.02 COMPENSATION. The city attorney shall be paid such compensation as specified by resolution of the council.
(Code of Iowa, Sec. 372.13(8))

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 13 - SUPERINTENDENT OF PUBLIC WORKS

13.01 SUPERINTENDENT OF PUBLIC WORKS - APPOINTED. A public works superintendent shall be appointed by the council to serve at its pleasure and direction. He/she shall work under the direction and supervision of the council.

13.02 POWERS AND DUTIES – WATER SYSTEM. The powers and duties of the Superintendent of Public Works concerning the City’s water system shall be as follows:

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

1. **SUPERVISE WATER DISTRIBUTION SYSTEM.** Supervise and inspect the installation and connection of all water mains and service pipes in the city and maintain the system in an adequate manner. Maintain records of the same.
2. **SUPERVISE WATER SUPPLY.** Operate city water supply and storage facilities in accordance with the best practice for the protection of the purity of the water supply and provision of an adequate supply and pressure to the system.
3. **WATER TAPS.** Make or supervise the making of all taps to water mains according to established City policies.
4. **SHUT OFF WATER.** Shut off water supply when deemed necessary under policies set by the council.
5. **WATER METERS.** Be in charge of the installation and repair of water meters.
6. **RECORDS.** Maintain written records of inspections of installation and tapping of the water system, of purchase and disposition of equipment, of an up-to-date inventory, and of departmental activities.
7. **REPORTS.** Make to the mayor monthly oral or written reports on departmental activities on or before the first day of each succeeding month.

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13.03 POWERS AND DUTIES – SEWER SYSTEM. The powers and duties of the Superintendent of Public Works concerning the City's sewer system shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. SUPERVISE STORM SEWER & SANITARY SEWER INSTALLATION. Supervise and inspect the installation and connections of all sanitary sewers and storm water sewers in the city and supervise the storm drainage system in the city. Maintain records of the same.
2. INSPECT CONNECTIONS. Inspect all sewer connections and sewer interceptors and keep records of these inspections.
3. UNCOVER MANHOLES. Uncover manholes that are buried, raising them where necessary to keep them accessible.
4. COMPLETE WORK. Finish or correct work on any private connection to the public sewer system as authorized by Section 4.17, Chapter 2 of Title II of this Municipal Code.
5. RECORDS. Maintain written records of inspections of sewer work, of purchase and disposition of equipment, of an up-to-date inventory, and of departmental activities.
6. REPORTS. Make to the mayor monthly oral or written reports on departmental activities on or before the first day of each succeeding month.

13.04 POWERS AND DUTIES – STEETS, ALLEYS AND SIDEWALKS. The powers and duties of the Superintendent of Public Works concerning the City's streets, alleys, sidewalks and public grounds shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. GENERAL DUTIES. The street superintendent shall be superintendent of all improvements upon the streets, alleys, sidewalks and public grounds.
2. MAKE REPAIRS. Make all repairs upon the streets, alleys and sidewalks, necessary to keep the same safe and passable and see that they are so kept, and shall receive all complaints made of a dangerous, impassable or unsafe condition on any street, alley, crossing, bridge or sidewalk in the city.
3. MAINTAIN STREETS AND ALLEYS. Maintain that the streets and alleys are kept free and clear of all deposits of dirt, waste, grass, wood, brush or other refuse.
4. SUPERVISE EXCAVATIONS. Supervise the making of all excavations in the streets and alleys for laying sewer or water mains, or making of connections, see

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that proper barricades with warning lights are maintained, and that such excavations are refilled, and pavement replaced as required by ordinance and subject to his/her approval.

5. RECORDS. Keep a record of work accomplished by him/herself or under him/her supervision, showing the street, alley, sidewalk or public ground on which work was performed, and the name of each laborer.
 6. REPORT. Report to the council all persons refusing to comply with or violating any ordinance in relation to streets, alleys or public grounds.
 7. Make to the mayor monthly oral or written reports of departmental activities on or before the first day of each succeeding month.
- 13.05 COMPENSATION. The Superintendent of Public Works shall be paid such compensation as specified by resolution of the City Council.
(Code of Iowa, Sec. 372.13(8))

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ARTICLE 14 – RESERVED FOR FUTURE USE

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CHAPTER 4: ADMINISTRATIVE STRUCTURE - ADMINISTRATION

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 18 - POLICE DEPARTMENT

The City of Hospers is provided police protection through contractual agreement with the Sioux County Sheriff's Department.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 19 - FIRE DEPARTMENT

- 19.01 PURPOSE. A volunteer fire department is 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.
- 19.02 QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:
1. RESIDENT CITIZEN. Is a citizen of the United States and a resident of the city or intends to become a resident upon acceptance as a member of the department.
 2. AGE. Is at least eighteen (18) years of age.
 3. DRIVER'S LICENSE. Has a current active Iowa driver's license.
 4. ALCOHOL AND DRUGS. Is not a drug addict or drunkard.
 5. CHARACTER. Is a good moral character and has not been convicted of a felony.
- 19.03 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the chief.
- 19.04 ELECTION OF OFFICERS. The department shall elect a chief and such other officers as necessary, but the election of chief shall be subject to the approval of the council. In case of absence of the chief, the officer next in rank shall be in charge and have and exercise all the powers of chief.
- 19.05 ACCIDENTAL INJURY INSURANCE. The council shall contract to insure the city against liability for workmen's compensation and against liability for the costs of hospitalization, nursing, and medical attention for volunteer firemen injured in the performance of their duties as firemen whether within or outside the corporate limits of the city. All volunteer firemen shall be covered by the contract.
- 19.06 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. 613A.2 & 517A.1)
- 19.07 FIRES OUTSIDE THE CITY. The department shall answer calls to fires and other emergencies outside the city limits if the fire chief determines that such emergency exists and that such action will not endanger persons and property within the city limits.
(Code of Iowa, Sec. 364.4(2 & 3))

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- 19.08 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 City Clerk.
(Code of Iowa, Sec. 364.4(2 & 3))
- 19.09 FIRE CHIEF. The council shall appoint the fire chief for a term of two (2) years or for the balance of a term if to fill a vacancy. The council may remove the fire chief by written order setting out the reasons for removal which shall be filed with the City Clerk. The fire chief, before entering upon the duties of his/her office, shall qualify for office by taking the oath prescribed in Title 1, Chapter 1, Section 5.07 of this Municipal Code.
- 19.10 POWERS AND DUTIES. The duties of the fire chief shall be as follows:
1. DIRECT DEPARTMENT. 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.
 2. ENFORCE DEPARTMENT REGULATIONS. Enforce all rules and regulations established by the council for the conduct of the affairs of the fire department.
 3. CONTROL DEPARTMENT 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.
 4. KEEP RECORDS. Keep records of the fire department personnel, operating cost and efficiency of each element of firefighting 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.
 5. REPORTS. Make monthly written reports to the mayor and council concerning the general status and efficiency of the fire department, the number of alarms answered during the previous month, and any additional information. He/she shall compile and file with the mayor an annual report summarizing the department's activities for the year and containing recommendations for improvements in the department.
 6. ENFORCE ORDINANCES AND STATE LAWS. Enforce all ordinances and, here enabled, state laws regulating the following:
 - a. Fire prevention
 - b. Maintenance and use of fire escapes
 - c. The investigation of the cause, origin and circumstances of fires
 - d. The means and adequacy of exit in case of fire from halls, theaters, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose

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- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
- 7. **RIGHT OF ENTRY.** Have the right of entry into any building or premises within his/her jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. He/she shall conduct such investigation or inspection that he/she considers necessary in light of state law, regulation or ordinance.
- 8. **MAKE RECOMMENDATIONS.** Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
- 9. **AID STATE FIRE MARSHAL.** Aid the state fire marshal when requested in the performance of his/her duties by investigating, preventing and reporting data pertaining to fires.
- 10. **APPOINT FIREMEN.** Appoint carefully selected volunteer firemen, with council approval, fill vacancies among them and discharge them when necessary.
- 11. **INVESTIGATIONS.** Investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. If death, serious bodily injury or property damage in excess of two hundred thousand dollars occurs as a result of a fire, or if arson is suspected, he/she shall notify the state fire marshal's division immediately. Within ten (10) days following the end of each month the chief shall file a report of all fire incidents with the state fire marshal's division in the form required by the state fire marshal.
- 12. **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 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)
- 13. **CONTROL OF SCENE** 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)
- 14. **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 firefighting effort of the fire department, to

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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)

19.11 COMPENSATION. The compensation of the fire chief shall be determined by the council.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 20 – LIBRARY

20.01 PURPOSE. The purpose of this ordinance is to provide for the (establishment of a free public library for the city and for the) creation and appointment of a city library board of trustees, and to specify that board's powers and duties.

20.02 PUBLIC LIBRARY. There is hereby established a free public library for the city, to be known as the Hospers Public Library.

20.03 LIBRARY TRUSTEES. The board of trustees of the Hospers Public Library, hereinafter referred to as the board, consists of 5 members. All residents board members are to be appointed by the mayor with the approval of the council. The nonresident member shall be appointed by the mayor with the approval of the board of supervisors. At least three-fifths (3/5) of board members shall be residents of Hospers.

20.04 QUALIFICATIONS OF TRUSTEES. All of the members of the board shall be bona fide citizens and residents of the city (except the nonresident members), and all shall be over the age of eighteen (18).

20.05 ORGANIZATION OF THE BOARD.

1. All appointments to the board shall be for three (3) years, except to fill vacancies. Each term shall commence on July first. Trustees may be appointed to successive terms. Appointments shall be made every year, as nearly as possible in order to stagger the terms. Two (2) appointments shall be made on the first rotation. One year later two (2) more appointments shall be made on the second rotation. One year later one (1) more appointment shall be made on the third rotation. Then one year later the rotation will restart. The present incumbents are confirmed in their appointments and terms.
2. Vacancies. The position of any trustee shall be vacant if he/she moves permanently from the city (or the county in the case of a nonresident county member); or if he/she is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the city. Vacancies in the board shall be filled by appointment of the mayor, with approval of the council or the board of supervisors in the case of the nonresident members, and 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.

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20.06 POWERS AND DUTIES. The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary. The City Clerk shall serve as board treasurer, but shall not be a member of the board.
2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.
3. To direct and control all the affairs of the library. 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. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty.
6. To 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. To authorize the use of the library by nonresidents of the city and to fix charges therefor.
8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.
9. 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. 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. To keep a record of its proceedings.
12. To enforce the performance of conditions on gifts, devises and bequests accepted by the city by action against the city council.

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13. To have authority to make agreements with the local county historical associations, where such exist, 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 receptables 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.

20.07 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

1. Contracting. The board may contract with any other boards of trustees of free public libraries of any other city, school organization, institution of higher learning, township, or county, or with the trustees of any county library district for the use of the library by their respective residents.
2. Termination. Such a contract may be terminated at anytime 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 (5) per cent in number of the electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than 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 who is seeking to terminate the contract.

20.08 NONRESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by nonresidents in any one or more of the following ways:

1. By lending books or other materials of the library to nonresidents on the same terms and conditions as to residents of the City, or upon payment of a special nonresident library fee.
2. By establishing depositories of library books or other materials to be loaned to nonresidents.
3. By establishing bookmobiles or a traveling library so that books or other library materials may be loaned to nonresidents.
4. By establishing branch libraries for lending books or other library materials to nonresidents.

20.09 LIBRARY ACCOUNT. All money appropriated by the council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the board, signed by its president and secretary. The warrant writing office is the city clerk.

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- 20.10 ANNUAL REPORT. The board shall Make a report to the city council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of fines collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the council.

(Ordinance 567 to Establish Public Library and Board of Trustee, passed by Council on August 7, 2000 and approved August 18, 2000.)

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 21 – BUDGET

21.01 FINANCE OFFICER. The city clerk shall be the finance and accounting officer of the city and shall be responsible for the administration of the provisions of this chapter.

21.02 PREPARATION. The annual operating budget of the city shall be prepared in accordance with the following:

1. ANNUAL BUDGET BY CLERK. The City Clerk shall be responsible for helping the mayor prepare the annual budget detail of revenues and expenditures, for review and adoption by the council in accordance with directives of the mayor and council.
(Code of Iowa, Sec. 384.16)
2. BOARDS AND COMMISSIONS BUDGETS. 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 City Clerk for consideration in the proposed city budget no later than December 1 of each year and in such form as may be required by the City Clerk.
(Code of Iowa, Sec. 384.20)
3. SUBMISSION TO COUNCIL. The clerk shall submit the completed budget proposal to the council no later than February 15 of each year.
4. COUNCIL REVIEW. The mayor and council shall review the proposed budget and may make any adjustments in the budget which they deem appropriate before accepting such proposal for publication of notice, 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 no 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. 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.

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

7. **PROTEST.** At the hearing, any resident or taxpayer of the city may present to the council objections or arguments in favor of any part of the budget for the following fiscal year.

(Code of Iowa, Sec. 384.16(4))

8. **ADOPTION AND CERTIFICATION.** After the hearing, the council shall adopt, by resolution, a budget for at least the next fiscal year; and the City 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))

- 21.03 **BUDGET AMENDMENTS.** The 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 INCREASED.** Any increase in the total amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
2. **TRANSFER OF APPROPRIATION BETWEEN PROGRAMS.** 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.

(Code of Iowa, Sec. 384.18(4))

3. **TRANSFER WITHIN PROGRAMS.** When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures, he/she shall inform the council; or if the council upon its own investigation so determines, and another account within the same program has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation, which alone or with the other account can provide the needed appropriations, the council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers.

Upon the passage of the resolution and approval by the mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the council. Thereupon, the City Clerk shall cause the appropriations to be revised upon the appropriation expenditure ledgers of the city, but in no case shall the total of the appropriation to a program be increased nor shall the total appropriation for all purposes be

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increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(Code of Iowa, Sec. 384.15(1))

4. **TRANSFER BETWEEN FUNDS.** Transfers between funds may be approved by council resolution or as planned in the budget if permitted or required by law.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 22 - FUNDS

22.01 FUND CONTROL. The City Clerk shall establish and maintain separate and distinct funds only as required or permitted by law, and account to them as follows:

1. REVENUES. All monies received by the city shall be credited to the proper fund as required by law, ordinance, or resolution.
(Code of Iowa, Sec. 384.3)
2. EXPENDITURES. No disbursements shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, or 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.

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(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.

22.02 SPECIAL FUNDS; IMPREST CASH FUNDS.

1. PETTY CASH FUND. The City Clerk shall be custodian of a petty cash fund not to exceed thirty dollars (\$30.00) for the payment of small claims for minor purchases, collect-on-delivery, transportation charges, and small fees customarily paid at the time of rendering a service. The City Clerk shall obtain some form of receipt or bill acknowledging payment by the vendor of his/her agent.

At such time as the petty cash fund is approaching depletion, the City Clerk shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

(Code of Iowa, Sec. 384.9)

- 22.03 FUND SURPLUS. The governing body of a city utility, combined utility system, city enterprise or combined city enterprise which has a surplus in its fund may transfer such surplus to any other city fund, except the emergency fund, by resolution. A surplus shall be defined in accordance with generally-accepted accounting principles as promulgated by the American Institute of Certified Public Accountants. No transfer shall be made that is in violation of State law or rules of the city finance committee.

(Code of Iowa, Sec. 384.89)

- 22.04 INVESTMENT POLICY. The Council shall establish an Investment Policy to comply with the standards set in Chapter 12 B of the Code of Iowa. Copies of this Investment Policy shall be distributed to all appropriate officials.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 23 - ACCOUNTING

- 23.01 BOOKS OF ORIGINAL ENTRY. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
- 23.02 GENERAL LEDGER. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts, and for recording unappropriated surpluses.
- 23.03 CHECKS. Checks shall be prenumbered and signed by the City Clerk and Mayor following council approval, except as provided by Section 23.05 hereof.
- 23.04 BUDGET ACCOUNTS. There shall be established such individual accounts to record receipts by source and expenditures by program, subprogram 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.
(Code of Iowa, Sec. 384.20)
- 23.05 IMMEDIATE PAYMENT AUTHORIZED. The council may by resolution authorize the City Clerk and Mayor 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.
- 23.06 UTILITIES. The clerk shall perform and be responsible for accounting functions of the municipally owned utilities.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 24 - FINANCIAL REPORTS

- 24.01 MONTHLY REPORTS. There shall be submitted to the council at the first meeting of each month a report showing the activity and status of each fund, program, subprogram, and activity for the preceding month.
- 24.02 ANNUAL REPORT. Not later than December 1 of each year, there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be furnished to the Auditor of the State by December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 25 - PURCHASING

25.01 BIDDING REQUIREMENTS.

1. PUBLIC IMPROVEMENT BIDDING. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars (\$100,000), or the adjusted competitive bid threshold established in Code of Iowa Section 314.1B, the City shall advertise for sealed bids for the proposed public improvement by publishing a notice to bidders. The notice to bidders shall be published at least once, not less than four and not more than forty-five days before the date for filing bids, in a newspaper published at least once weekly and having general circulation in the geographic area served by the governmental entity.

(Code of Iowa, Section 26.3)

2. COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds thirty-six thousand dollars (\$36,000), but is less than the competitive threshold of bid one-hundred thousand dollar (\$100,000). The thresholds are subject to change of Code of Iowa, Chapter 314.

(Code of Iowa, Section 26.14)

3. LICENSED ENGINEER, LANDSCAPE ARCHITECT OR REGISTERED ARCHITECT. The City shall have an engineer licensed under Code of Iowa Chapter 542B, a landscape architect licensed under Code of Iowa Chapter 544B, or an architect registered under Code of Iowa Chapter 544 A prepare plans and specifications and calculate the estimated total cost of a proposed public improvement. The City shall ensure that a sufficient number of paper copies of the project's contract documents, including all drawings, plans, specifications, and estimated total costs of the proposed public improvement are made available for distribution at no charge to prospective bidders, subcontractor bidders, suppliers, and contractor plan room services. If a deposit is required as part of a paper contract documents distribution policy by the public owner, the deposit shall not exceed two hundred fifty dollars per set which shall be refunded upon return of the contract documents within fourteen days after award of the project. If the contract documents are not returned in a timely manner and in a reusable condition, the deposit shall be forfeited. The governmental entity shall reimburse the landscape architect, architect, or professional engineer for the actual costs of preparation and distribution of plans and specifications.

(Code of Iowa, Section 26.3)

4. EXEMPTIONS FROM COMPETITIVE BIDS & QUOTATIONS. Architectural, landscape architectural, or engineering design services procured for a public improvement are not subject to Code of Iowa sections 26.3 and 26.14.

(Code of Iowa, Section 26.3)

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CHAPTER 7: CITY RECORDS

ARTICLE 26 - CUSTODY OF THE CITY'S PUBLIC RECORDS

- 26.01 RECORDS - CUSTODY AND CONFIDENTIALITY RULINGS. In compliance with Chapter 22, Code of Iowa, the officers and employees bearing the titles named herein shall be in custody of the particular records or class of records assigned to the positions named by this resolution and are directed to familiarize themselves with the requirements of the law in Chapter 68A, as amended. Whenever there is a doubt concerning whether a record is an open or confidential public record the custodian thereof shall withhold the record and immediately ask for an opinion of the city attorney interpreting the law. Every effort shall be made to expedite a decision and all doubts should be resolved in favor of openness.
- 26.02 CLERK'S DUTY - INFORMATION. The city clerk shall obtain and place in the hands of each named custodian a copy of the public records, law and any interpretations available to the city. The clerk shall also keep ~~himself~~ informed of any amendments or new interpretations and distribute such agenda to the named custodians promptly upon receipt thereof.
- 26.03 CUSTODIANS NAMED FOR SPECIFIED RECORDS.
1. POSITIONS NAMED. The following city positions named shall be custodians of the specific records and related items assigned to each position:
 - a. City Clerk* Council minutes and proceedings and related papers, ordinance and resolution records, reports filed, surety bonds, deeds, abstracts for city-owned property, petitions, correspondence, special assessment schedules, bond register, all budget papers, accounts, receipts, invoices, purchase orders, warrants/ checks, utility accounting records not in hands of superintendents, personnel records not in hands of a personnel officer. Treasurer's accounts, warrant records, investment records, depository agreements.
 - b. City Attorney (solicitor).* Legal opinions, records of legal cases, investigations.
 - c. Police Chief (marshal in one-man department). Investigation, arrest and activity ("blotter") records, finger prints, MO's, traffic records.
 - d. Fire Chief. Inspection reports, incident records, correspondence, etc.

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- e. Water Superintendent (operator, in one-man department). Operating records, volume pumped, water quality tests, etc., customer billings if responsible for billing.
- f. Waste Water Superintendent. Operating records, volume pumped, water quality tests, etc., customer billings if responsible for billing.
- 2. CITY CLERK CUSTODIAN. The city clerk shall be custodian of any papers, records or documents that are named for a position where the position is vacant or does not exist and shall be custodian of any records not named until and unless the council amends the foregoing list.

*May withhold papers dealing with anticipated purchases of real property.

**Must withhold "personal" data of officers and employees unless officer or employee permits release. Name, address, salary, and years worked are not "personal".

If there are any questions concerning what personal information can be released then the City may consult with its City Attorney, prior to determining what, if any requested information may be released.

TITLE I

TITLE II PUBLIC SERVICE AND PUBLIC HEALTH

TITLE II

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

1.01 PURPOSE. The purpose of this chapter is to provide for the sanitary storage, collection, and disposal of solid wastes in order to protect the health, safety, and welfare of the citizens of this city from the hazards which may result from the uncontrolled disposal of solid wastes.

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

1. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to materials generating from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by the Code of Iowa.

(Code of Iowa, 455B.301(20))

- a. Garbage means all solid and semisolid, putrescible animal and vegetable wastes 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 byproducts, and shall include all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

- b. Refuse means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.

(IAC, 567-100.2)

- c. Rubbish means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

2. "Residential Waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.

(IAC, 567-20.2)

3. "Landscape Waste" or "Yard Waste" means any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

(IAC, 567-20.2)

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4. "Toxic and Hazardous Wastes" means waste materials including, but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes, which require special handling and careful disposal to conserve the environment and protect the public health and safety.
(IAC, 567-100.2)
5. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding ten (10) pounds in weight or fifteen (15) cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361(2))
6. "Rubble" means stone, brick, or similar inorganic material.
(IAC, 567-100.2)
7. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.
(IAC, 567-20.2)
8. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
(IAC, 567-20.2)
9. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
(IAC, 567-100.2)
10. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361(1))
11. "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)
12. "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 executive director.
(Code of Iowa, Sec. 455B.301(21))
13. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.
(IAC, 567-100.2)

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14. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.
(IAC, 567-20.2)
 15. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).
 16. "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.
 17. "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.
- 1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.
 - 1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
 - 1.05 OPEN BURNING. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard. No person shall allow, cause or permit open burning of combustible materials. The following shall be permitted exceptions upon authorization by city council:
(IAC, 567-23.2)
 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. DISEASED TREES. The open burning of diseased trees; however, when the burning of diseased trees causes a nuisance, appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.
(IAC, 567-23.2(3b))

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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 EPC of the IDNR.

(IAC, 567-23.2(3c))

4. **LANDSCAPE WASTE.** The disposal by open burning of landscape waste originating on the premises; however, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. 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 EPC of the IDNR. Recreational fires shall include fires used for the purposes of cooking food, provision of heat, and ceremonial.

IAC, 567-23.2 (3e)

- a. The fire shall not be ignited more than 2 hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.

6. **TRAINING FIRES.** Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the Executive Director of the EPC of the IDNR receives notice in writing at least one (1) week before such action commences.

(IAC, 567-23.2(3g))

7. **Controlled Burning of a Demolished Building.** The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

8. **VARIANCE.** Any person wishing to conduct open burning of materials not permitted herein this code of ordinances may make application for a variance to the Director of the State Department of Natural Resources. No person shall kindle or maintain any premises fire or authorize any such fire to be kindled or maintained on any private land unless (i) the location is not less than fifty (50) feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (ii) the fire is contained in a fire ring or approved waste burner located safely not less than twenty-five (25) feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use. The Fire Chief may prohibit any or all bonfires and outdoor

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rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

- 1.06 LITTERING PROHIBITED. No person shall discard any litter on or in any water or land, except when and where authorized. 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.
- 1.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of IDNR, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director or a designee of the Iowa Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.
(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)
- 1.08 TOXIC AND HAZARDOUS WASTES. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.
(IAC, 567-100.2) (IAC, 567-102.14(2) and 400-27.14(2))
- 1.09 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 SPECIFICATION/UNIT BASED PRICING. Residential waste containers shall be supplied the solid waste contractor.
 2. LOCATION 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 and fully accessible to collection equipment, public-health personnel, and fire-inspection personnel.

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3. **NONCONFORMING CONTAINERS.** Solid waste containers, which are not approved, will be collected together with their contents and disposed of after due notice to the owner.

- 1.10 **GARBAGE RECEPTACLES.** All public buildings, including all business organized for profit, or non-profit organizations, who occupy a building within the city limits, shall contain all garbage, rubbish and waste produced by said business/organization in an appropriate receptacle or container and cause said garbage, waste or rubbish to be adequately disposed. No garbage or trash shall be allowed to unnecessarily overflow from the container. A violation of this ordinance shall be a civil infraction subject to penalties.

(Editor's Note: Section 1.10 was added by ordinance 603, approved February 1, 2016.)

- 1.11 **SEPARATION OF YARD WASTES.** All landscape waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or disposed at a City designated landscape waste and tree disposal site (dump site) maintained by the City. As used in this section, "landscape wastes" means any debris such as any vegetable plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, shrubbery, weeds, grass, grass clippings, leaves and garden waste. Tree trimmings, branches, or shrubbery shall be disposed at the City designated landscape and tree disposal site, unless such wood is cut for firewood and neatly stacked in rear or side yard of the property. Any accumulation of landscape waste on the premises, other than in composting bins, for a period of thirty (30) days or more shall be deemed a nuisance and may be treated accordingly.
- 1.12 **STORAGE OF YARD WASTES.** The City will provide a site for the disposal of all yard waste.
- 1.13 **SANITARY DISPOSAL REQUIRED OF OWNER.** It shall be the duty of each owner to provide for the sanitary disposal of all refuse or solid waste accumulating on his/her premises before it becomes a nuisance. If such accumulation becomes a nuisance, the city may proceed to abate the nuisance. Any such accumulation remaining on any premises for a period of more than fourteen (14) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Title III, Article 9 Nuisance Abatement Procedures or by initiating proper action in district court.

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1.14 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. **UNLAWFUL USE OF CONTAINERS.** Deposit refuse in any solid-waste containers other than his/her own 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, whether such equipment or collectors be those of the city or those of any other authorized waste-collection service.
3. **UNLAWFUL DISPOSAL.** Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. **UNLAWFUL COLLECTION.** Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract with the city, or possessing a city solid waste hauler permit.
5. **INCINERATORS.** Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.
6. **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.
 - a. An exception is the City allows scavenging of unwanted items (not garbage) placed between the curb and sidewalk (parking area or terrace) during City designated "cleanup days". Scavenging in trashcans, garbage can, a dumpster, or garbage bag is prohibited.

1.15 WIND-BLOWN REFUSE. It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.

1.16 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES. It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the city without the consent of the owner or tenant in possession thereof. For the purpose of this section vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.

1.17 DEBRIS ON STREETS. It shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley or sidewalk or other public place in the city.

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- 1.18 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS. It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the city. The City may authorize leaves on City streets for fall pickup.
- 1.19 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

TITLE II

CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 2 - COLLECTION AND TRANSPORTATION OF SOLID WASTE

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

1. "Solid Waste Collection" shall mean the gathering of solid wastes from public and private places.
(IAC, 567-100.2)
2. "Solid Waste Transportation" shall mean the conveying of solid waste from one place to another by means of vehicle, rail, car, water vessel, conveyor, or other means.
(IAC, 567-100.2)
3. "Residential Premises." A single-family dwelling and any multiple family dwelling up to and including four (4) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of each such apartments or units which may be included in a given housing development.
4. "Dwelling Unit." 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. "Property Served." Any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided by this chapter.
6. "Collectors." Any person authorized by the city to gather solid waste from public and private places.

2.02 COLLECTION SERVICE. The City shall provide for the collection of refuse from residential, commercial, industrial or institutional premises within their jurisdiction which are not exempted by law.
(Code of Iowa, Sec. 455.302)

2.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse 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) & (Code of Iowa, Sec. 455B)

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- 2.04 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill, 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.
- 2.05 FREQUENCY OF COLLECTION. All refuse shall be collected from residential premises at least once a week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.
- 2.06 BULKY SOLID WASTE. Bulky solid waste which is too large or heavy to be collected in the normal manner of other refuse may be collected at the discretion of the collector upon request.
- 2.07 Reserved for Future Use.
- 2.08 Reserved for Future Use.
- 2.09 RIGHT OF ENTRY. Solid waste collectors are authorized to enter upon private property for the purpose of collecting refuse as required by this chapter. However, solid waste collectors shall not enter dwelling units or other residential buildings.
- 2.10 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his/her own within the City without first obtaining from the City an annual contract in accordance to the following:
(Code of Iowa, Sec. 455B.302)
1. REQUIRED INFORMATION. The following information shall be required on the contract with the city:
- a. Name and address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers.
 - b. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - c. Collection program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - d. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

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2. **INSURANCE.** No collector's contract shall be entered into unless the applicant shall file and maintain with the city, in addition to all other requirements, evidence of satisfactory public liability insurance. This insurance must cover all pertinent operations of the applicant related to the business, equipment and vehicles to be operated in the following minimum amounts:

| | |
|-----------------|--|
| Bodily injury - | \$100,000 per person \$300,000 per occurrence |
| Property damage | \$50,000 |

Each insurance policy required shall include provisions requiring the insurance agent to notify the city of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. **CONTRACT NEGOTIATED.** If the council upon investigation finds the collector to be in order and determines that the collector will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the contract shall be negotiated to be effective for a period of at least one year.
 4. **ANNUAL RENEWAL.** The contract may be renewed upon council review of the contractor's compliance with its terms.
 5. **CONTRACT NOT TRANSFERABLE.** No contract authorized by this chapter may be transferred to another person without council approval.
 6. **OWNER MAY TRANSPORT.** Nothing within this chapter is to be construed as to prevent an owner from transporting solid waste accumulating upon premises owned, occupied or used by him/her, provided such refuse is disposed of properly in an approved sanitary disposal project.
 7. **GRADING OR EXCAVATION EXCEPTED.** No contract or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.
- 2.11 **COLLECTION FEES.** The collection and disposal of refuse as provided by this chapter is declared to be a benefit to the property served and therefore, a mandatory fee shall be levied and collected in accordance to the following:
- (Code of Iowa, Sec. 384.84(1))
1. **SCHEDULE OF FEES.** The fee for refuse collection and disposal services used or available is set by ordinance of the City Council. A listing of these fees is available at the Office of the City Clerk or contained in Appendix B of this Municipal Code.

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2. PAYMENT OF FEES. The fees provided shall be due and payable at the office of the City Clerk on or before the 10th day of the month along with the water and sewer charges.
 3. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent and a late penalty of 10% of the total amount (water, sewer, solid waste, garbage and tax) due shall be added.
 4. PAYMENT TO COLLECTOR. The City shall pay the collector by the 15th of the month the amount due for the previous month.
- 2.12 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for solid waste collection services becomes delinquent by more than sixty (60) days:
1. The City may discontinue solid waste collection services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.
 2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least ten (10) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.

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3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
- 2.13 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

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CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 3 - SOLID WASTE DISPOSAL

3.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "Processing facility" shall mean any incinerator, baler, shredder or similar facility or process employed to reduce the volume or change the characteristics of, solid waste prior to final disposal.
2. "Site" shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.
(IAC, 567-100.2)
3. "Scavenging" shall mean the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.
(IAC, 567-100.2)
4. "Operator" shall mean the person or agency authorized to conduct disposal operations at a public sanitary landfill or licensed private landfill.
5. "Resident" shall mean in addition to any person residing in the city, any person occupying or using any commercial, industrial or institutional premises within the city.
6. "Radioactive material" shall mean any solid, liquid, or gaseous material which emits radiation spontaneously.
(Code of Iowa, Sec. 455B.331(2))

3.02 SANITARY DISPOSAL REQUIRED. Solid wastes generated or produced within the city shall be disposed of at a sanitary disposal or processing facility approved by the city and by the Executive Director of the EPC of the Iowa DNR.
(Code of Iowa, Sec. 455B.307(1))

3.03 EXCEPTIONS. Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is levelled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

3.04 TOXIC AND HAZARDOUS WASTES. Toxic or hazardous wastes shall be disposed of only in accordance with explicit instructions first obtained from the Executive Director of the EPC of the Iowa DNR.
(IAC, 567-102.14(2))

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- 3.05 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.
(IAC, 567-102.14(1))
- 3.06 SANITARY DISPOSAL PROJECT DESIGNATED. The Northwest Iowa Landfill and Recycling Center operated by the approved operator are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.
- 3.07 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.
- 3.08 NEW SITE APPROVAL. Prior to the siting of a proposed new sanitary landfill or infectious waste incinerator within the city limits, a request for approval shall be submitted to the council. The applicant shall submit information to the council to demonstrate compliance with the requirements prescribed by Chapter 455B of the Code of Iowa.
(Code of Iowa, Sec. 455B.305A)
- 3.09 OPEN DUMPING PROHIBITED. No person shall cause, allow or permit the disposal of solid waste upon any place within the jurisdiction of the city owned or occupied by him/her unless such place has been designated by the city as a licensed sanitary disposal project, public sanitary disposal project or an approved processing facility.
(Code of Iowa, Sec. 455B. 307)

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 4 - PUBLIC SEWER SYSTEMS

4.01 PURPOSE. The purpose of this Chapter is to provide for the regulation of public and private sewer systems.

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

1. "Sewer System" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this chapter.
(Code of Iowa, Sec. 455B.171(36))
2. "Sewage" means the water-carried waste derived from ordinary living processes.
(Code of Iowa, Sec. 455B.171(33))
3. "Public Sewer" means a common sewer which is directly controlled by a public authority.
4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.
5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface and ground water.
6. "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 wastes.
7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.
(Code of Iowa, Sec. 455B.171(10))

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9. "Properly Shredded Garbage" means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch to any dimension.
10. "Building Drain" means that part of the lowest horizontal piping of a 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.
11. "Building Sewer" is that part of the horizontal piping from the building wall to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.
12. "Natural Outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
13. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
14. "Contributor" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
15. "Sewer Rental" means any and all rates, charges, fees, or rentals levied against and payable by contributors as consideration for the servicing of said contributors by said sewer system.
16. "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent, or if 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.
17. "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous and undesirable matter from normal wastes and permit normal sewage or liquid wastes to discharge into the drainage system.
18. "Superintendent" or means the person assigned to supervise the sanitary sewage collection system and treatment works.
19. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
20. "Sewer" shall mean the pipe or conduit for carrying sewage.

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21. "Storm Drain" or "Storm Sewer" shall mean a sewer which carries storm and surface waters and drainage but excludes sewage and industrial waste, other than unpolluted cooling water.
23. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
24. "Suspended Solids" shall mean 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.
25. "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 parts per million by weight.

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

1. **DAMAGING SEWER SYSTEM.** No unauthorized person shall 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, Chapter 716)
2. **MANHOLES.** No person shall open or enter any manhole of the sewer system, except by authority of the superintendent.
(Code of Iowa, Chapter 716)
3. **DOWNSPOUTS.** Connect a roof downspout, exterior foundation drain, area-way 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.
4. **OBJECTIONABLE WASTE.** Place or deposit in an 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 SYSTEMS.** 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 this chapter.
(Iowa Code, Sec. 364.12(3f))

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- 4.04 TREATMENT REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or " other purposes, situated within the City and abutting on any street, alley or, right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (61 meters) 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))

- 4.05 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, he/she must obtain a written permit from the City Clerk. The following shall apply to all permits:

1. APPLICATION. The application shall be filed on blanks furnished by the city and contain the following information:
 - a. Legal description of the property.
 - b. Name of property owner.
 - c. Amount and date of any prior assessment for construction of the public sewers.
 - d. Description of materials to be used and manner of construction.
 - e. The line of the building sewer and place of connection.
 - f. Intended use of the sewer.
 - g. Name and address of the person doing the work.
 - h. Plans, Specifications and other pertinent information.

At the discretion or judgment of the Superintendent, he/she may require the permit application to be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.
3. REVOCATION. The mayor at any time may revoke the permit for any violation of this chapter and require that the work be stopped. The owner or plumber may appeal such action to the council.

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4. FEE. Before any permit is issued, the person who makes the application shall pay a fee of \$50.00 to cover the cost of issuing the permit and supervising, regulating and inspecting the work.
- 4.06 CONNECTIONS. The owners of all new residences and business establishments intended or used for human habitation, occupancy, or uses which abut public sewers must connect their sewage facilities to the public sewers. The following shall pertain to all connections. (Code of Iowa, Sec. 364.12(3f))
 1. PLUMBER REQUIRED. Any connection to a public sewer shall be made by a licensed and insured plumber approved by the city. The superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter; a suspension, unless revoked, shall continue until the next regular meeting of the council. The superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the council meeting at which he/she will be granted a hearing. At this council meeting the superintendent shall make a written report to the council stating his/her reasons for the suspension, and the council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper.
 2. CONNECTION FEE. The fee for the initial connection of sewer line shall be one hundred dollars (\$100.00).
(Code of Iowa, Sec. 384.84(2))
 3. SPECIAL CONNECTION CHARGE. If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of the public sewers, or has been assessed only as an unimproved lot, the owner shall pay a special connection charge to the city for the use of the public sewers before the permit is issued. The fee amount shall be determined by the council by ordinance.
 4. SEPARATE CONNECTIONS. In no case shall a joint sewer be allowed where the property abuts on a street, alley or easement in which there is a public sewer. Other buildings in adjacent areas which are required to be connected shall be separately and independently connected to the public sewers unless the council specifically permits joint connections by resolution.
 5. SEWAGE LIFTS. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
 6. SEWER TAPS, AT "Y" BRANCH. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, the property owner shall, at his/her own expense, install a "Y" saddle, carefully mortared set into the public sewer at the location specified by the City Clerk.

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7. **WATERCOURSE CROSSINGS.** No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed and where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end and be adequately supported if more than one pipe length is used.
- 4.07 **QUALITY OF PIPE AND FOUNDATION.** Building sewer pipes shall be of the best quality, free from flaws, splits or breaks. They shall be laid on a smooth bottom with bell holes cut in the bottom of the trench so that the joining of the bell and the spigot shall be watertight, gastight and root proof. All sewer pipes must be laid in such a manner as to prevent rupture or misalignment by settlement or freezing.
- 4.08 **GRADE.** All sewer pipes shall be laid with a uniform grade from the building to the public sewer system and no offsetting will be allowed without written permission of the superintendent.
- 4.09 **OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be the responsibility of 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.
- 4.10 **INTERCEPTORS.** Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, garages, and other facilities, when in the opinion of the superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity as provided by the State Plumbing Code, and shall be located so as to be readily and easily accessible for cleaning and inspection.
1. **REQUIREMENT.** The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
2. **MAINTENANCE.** All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his/her expense in continuously efficient operations at all times.
- 4.11 **EXCAVATIONS.** Excavations for sewers shall be dug so to present the least possible inconvenience to the public and to provide for the passage of water along the gutter. Such excavations shall have proper barricades at all times, and warning lights placed from one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise. The

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excavation must be backfilled in accordance with city specifications as to material and compaction so as to prevent settlement. The plumber must maintain the affected area in good repair to the satisfaction of the council for three (3) months after refilling. No excavation shall be made within six (6) feet of any laid water pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the superintendent.

- 4.12 SEPARATE TRENCHES. The building drain and water service pipe shall be at least ten feet apart horizontally and shall be separated by undisturbed or compacted earth.
- 4.13 EXCEPTION. The building sewer or building drain may be placed in the same trench with the water service pipe provided the following conditions are met:
1. WATER SERVICE PIPE ABOVE SEWER LINE. The bottom of the water service pipe, at all points, shall be at least twelve inches above the top of the sewer line at its highest point.
 2. WATER SERVICE PIPE ON SHELF. The water service pipe shall be placed on a solid shelf excavated at one side of the common trench. Where ground conditions do not permit a shelf, the pipe may be laid on a solidly tamped backfill.
 3. NUMBER OF JOINTS. The number of joints in the water service pipe shall be kept to minimum.
 4. PRESSURE PROHIBITED. No part of the building sewer or building drain shall be under pressure.
- 4.14 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
(Code of Iowa, Sec. 364.12)
- 4.15 COMPLETION BY CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the private sewer is installed and connected with the public sewer, the superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, he/she must pay the costs before he/she can receive another permit. The plumber's bond required for a plumber's license shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
- 4.16 INSPECTION AND APPROVAL. All private sewers and their connections with the public sewers must be inspected and approved by the superintendent before being backfilled. If approval is refused, the plumber or owner must proceed immediately to correct the work so that it will meet with approval.

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4.17 PROHIBITED DISCHARGE SPECIFIED. 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 its 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 following described substances, waters or wastes are prohibited:

1. **SURFACE WATERS.** Any storm water, surface water, ground water, roof runoff, subsurface drainage, foundation drain, cooling water or unpolluted industrial process waters. No sump pumps shall discharge into the sanitary sewer system, except during the period of December 1 and March 30 of each year respectively.
2. **HIGH TEMPERATURE.** Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
3. **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.
 - a. **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. **FLAMMABLE MATERIALS.** Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
5. **GARBAGE.** Any garbage that has not been properly shredded.
6. **SOLID OR VISCOUS SUBSTANCES.** Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city's sewage and treatment system.
7. **SUSPENDED SOLIDS.** Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.

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8. **CORROSIVE WASTES.** Any water or wastes having corrosive properties paunch capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of pH between 4.5 and 10.0.
9. **SLUGS.** Any wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids.
10. **NOXIOUS OR MALODOROUS GAS.** 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.
11. **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 or jurisdiction for such discharge to the receiving waters.
12. **TOXIC OR POISONOUS SUBSTANCE.** Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
13. **MATERIALS WHICH REACT WITH WATER OR WASTES.** 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 sewage structures and treatment processes.
14. **SPECIAL AGREEMENTS PERMITTED.** No statement in this section shall be construed as preventing any 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 as to treatment, rate and cost as established by the council.
15. **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 interest of the sewer system.
16. **SUSPENDED SOLIDS.** Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.

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17. ABANDONED SEWER LINES. When a sewer line in a home or business is discontinued or abandoned, the property owner shall dig the line and cap it off so that no fresh water may be discharged into the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his/her or her approval.
18. UNPOLLUTED WATERS OR WASTES IN SEWERS.
 - A. 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 of utilities. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent to a storm sewer, combined sewer or natural outlet.
 - B. No owner or occupant of any building shall discharge or permit to be discharged into the sanitary sewers any substance which will clog the pipes or joints or interfere unduly with the sewage disposal process.
19. EXCESSIVE BOD, Solids or Flow. Any waters or wastes having (1) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (2) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (3) having an average daily flow greater than two (2) percent of the average sewage flow of the city, shall be subject to the review of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (2) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (3) 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.
20. 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 BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

21. **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.
- 4.18 **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 system upon the terms and conditions stipulated by resolution of the council.
(Code of Iowa, Sec. 364.4(2&3))
- 4.19 **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 this chapter. The superintendent or his/her 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.
- 4.20 **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.
- 4.21 **ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines located upon the private property of any owner which is in violation of any of the requirements of this article, with the exception of the requirements of Subsection 4.17(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))

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4.22 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of this chapter:

1. Notice of Violation. Any person found to be violating any provision of this chapter except subsections 1, 3, 4 or 5 of Section 4.03 of this chapter, 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 guilty of a misdemeanor, and on conviction thereof shall be fined an amount of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). 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 this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

4.23 BACKFLOW VALVES. Any new construction or reconstruction of sanitary sewer services shall require the construction of an appropriate sanitary backwater prevention control device by a licensed and insured plumber.

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 5 - PRIVATE SEWER SYSTEMS

5.01 DEFINITIONS. The following terms are defined for use in this article.

1. "Private Sewage Disposal System" means all equipment and devices necessary for proper conduction, collection, storage, treatment and disposal of sewage from a dwelling or other facility serving the equivalent of fifteen (15) persons or less and including building sewers, septic tanks, absorption fields, leaching or seepage pits, privy vaults and subsurface sand filters.
2. "Reasonably Accessible" means a distance from a property to a sanitary sewer of 100 feet but the council may make a determination that up to 250 feet is practical for a connection to a public sewer system in specific circumstances.

5.02 WHEN PROHIBITED. No private sewage disposal system shall be installed where a public sanitary sewer is reasonably accessible as determined by the council unless an exception is granted in writing.

(IAC, 567-69.3 (3)(a)(1))

5.03 PRIVATE SYSTEM REQUIRED. When a public sanitary sewage is not reasonably accessible, every building wherein persons reside, congregate or are employed shall be provided with private sewage disposal system complying with state and local laws.

(IAC, 567-69.3(3)(a)(3))

5.04 CONNECTION REQUIRED WHEN AVAILABLE. When a public sanitary sewer becomes reasonably accessible, any building then served by a private sewage disposal system shall be connected to the public sewage system.

(IAC, 567-69.3(3)(a)(2))

5.05 PRIVATE SYSTEMS ABANDONED. Within sixty (60) days of notice that a public sewer is available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer and the private sewage disposal facility shall be abandoned and filled with suitable material.

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

5.06 COMPLIANCE WITH STATE RULES. The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Health.

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- 5.07 DISCHARGE TO NATURAL OUTLETS PROHIBITED. No septic tank or cesspool shall be permitted to discharge to any natural outlet or drain into the open.
(IAC, 567-69.3(3)(c))
- 5.08 MAINTENANCE OF FACILITIES. The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all time and at no expense to the city.
- 5.09 DISPOSAL OF WASTE. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any place in the city except where may be designated by the council. The rate or charge for receiving such waste shall be determined by resolution of the council.
- 5.10 ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his/her official capacity.

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 6 - SEWER RENTAL

- 6.01 SEWER RENTAL REQUIRED. Every contributor shall pay to the city sewer rental fees as hereinafter provided.

(Code of Iowa, Sec. 384.84(1))

- 6.02 RENTAL RATES. Each contributor shall pay a sewer rental in the amount as established by ordinance. A listing of the sewer rental rates may be obtained from the office of the City Clerk or is contained within Appendix B of this Municipal Code.

(Code of Iowa, Sec. 384.84(1))

- 6.03 SPECIAL RATES. Where in the judgment of the council, special conditions exist to the extent that the application of the sewer rental provided in section 6.02 would be inequitable or unfair to either the city or the contributor, a special rate shall be proposed by the council and submitted for approval by resolution.

(Code of Iowa, Sec. 384.84(2b))

- 6.04 PRIVATE WATER SYSTEMS. Contributors whose premises are served by a private water system shall pay sewer rentals based upon water use as determined by the council either by an estimate agreed to by the contributor or by metering the water system at the contributor's expense. Any negotiated or agreed upon sales or rentals shall be subject to approval of the council.

(Code of Iowa, Sec. 384.84(2b))

- 6.05 PAYMENT OF BILLS. All sewer rentals shall be due and payable under the same terms and conditions, including penalty for late payment, provided for payment for water service except that the provisions of section 6.06 shall be used to enforce collection of delinquent sewer charge.

(Code of Iowa, Sec. 384.84(1))

- 6.06 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for sanitary sewer service becomes delinquent by more than thirty (30) days:

1. The City may discontinue sanitary sewer service to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice

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shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.

2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least ten (10) days prior to certification of the lien to the County Treasurer the amount of the delinquent account and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
- 6.07 COMBINED SERVICE ACCOUNT. The City may combine charges for sanitary sewer services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 7 - USAGE OF PUBLIC SEWERS

7.01 PURPOSE. This ordinance permits the Council to enter into special agreements, arrangements or contracts with 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. Said provision is amended by adding the following subsections:

1. Special agreements entered into by the City and any industrial user both prior to the adoption of this amendment and hereafter generally impose limits on the waste water discharge or are otherwise imposed by a form of treatment agreement by and between the city and the industrial user with the approval of the Iowa Department of Natural Resources and such limits are necessary to avoid overloading the city's sewage treatment works.
2. The violation of any of such limits or the violation of any terms of a special agreement or the violation of any limits set forth in a treatment agreement shall be considered an unauthorized use of the sewage treatment works and the Council may upon written notice apply a surcharge to any or all of the loadings including: hydraulic, BOD, suspended solids, oil and grease, ammonia and other ingredients or effluent that exceeds specified limits.
3. The surcharges to be imposed on the aforementioned wastewater characteristics in excess of the limits allowed shall take into consideration shortened equipment life, additional operating costs and state penalties and replacement costs.
4. The surcharges shall be a minimum of \$150.00 per day for any form of violation with no maximum limitation. The actual surcharges shall be determined by the City Council as set forth in Appendix B attached to this Municipal Code.

7.02 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 to be invalid or unconstitutional.

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CHAPTER 3: WATER SERVICES

ARTICLE 8 - PUBLIC WATER SYSTEM

8.01 PURPOSE. The purpose of this chapter is to provide for the regulation of the public water system and water meters and the establishment of water rates.

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

1. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.
2. "Water Main" means a water supply pipe provided for public or community use.
3. "Water Service Pipe" means the pipe from the water main to the building served.
4. "Customer" shall mean 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.
5. "Superintendent" means the waterworks superintendent or his/her duly authorized assistant, agent or representative.

8.03 SUPERINTENDENT: APPOINTMENT, DUTIES. The council shall appoint a water superintendent who shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in this city in accordance with this article. This article 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 article, 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 he/she 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))

8.04 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.

8.05 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber.

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- 8.06 PERMIT REQUIRED. Before any person makes a connection with the public water system, a written permit must be obtained from the City Clerk. The following shall apply to all permits:

(Code of Iowa, Sec. 384.84(2))

1. APPLICATION. Application for the permit shall be filed with the City Clerk on blanks furnished by the city. It 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. No different or additional uses will be allowed except by written permission of the City Clerk.
2. ISSUANCE. The City Clerk shall issue the permit, signed by the City Clerk, and stating the time of issuance, if the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must begin within six (6) months after it is issued. The City Clerk may at any time revoke the permit for any violation of this article and require that the work be stopped.
3. FEE. Before any permit is issued the person who makes the application shall pay to the City Clerk the cover cost of issuing the permit and supervising, regulating and inspection of the work.

- 8.07 FEE FOR INITIAL CONNECTION. The fee for the initial connection of water lines shall be two hundred dollars (\$200.00) for new construction and one hundred dollars (\$100.00) for new customers at existing connections.

(Code of Iowa, Sec. 384.84(2))

(Editor's Note: Ordinance 589 approved by Council on November 19, 2007 amended initial connection fees).

- 8.08 SNOWBIRD FEE. There will be a fifteen dollar (\$15.00) reconnect fee for a seasonal disconnect and reconnect. If the service is not disconnected, monthly fee shall apply.

- 8.09 ABANDONED CONNECTIONS. When an old 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 cock and made absolutely watertight.

- 8.10 TAPPING MAINS. All taps into water mains shall be made under the direct supervision of the superintendent and in accord with the following:

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 council and unless provision is made so that each house, building or premise 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 three-fourths (3/4) inch tap. All mains over six (6)

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inches in diameter shall receive no larger than a one (1) inch tap. Where a larger connection than a one (1) inch tap is desired, two (2) or more small taps or saddles shall be used as the superintendent orders. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint of the main.

3. **CORPORATION COCK.** A brass corporation cock of the pattern and weight approved by the council shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one (1) size smaller than 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 required by him/her.
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- 8.11 **INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be standard weight type K copper, P.V.C. meeting I.A.P.M.O. specification IS-14-72, 160 lb. Polyethylene pipe, or approved cast, no smaller than 1" diameter as to prevent rupture from settlement or freezing.
 - 8.12 **CURB STOP.** There shall be installed a main shutoff valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the council. The shutoff valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.
 - 8.13 **OPERATION OF CURB STOP.** It shall be unlawful for any person except the water superintendent or his/her designee to turn water on at the curb stop.
 - 8.14 **INTERIOR STOP AND WASTE COCK.** There shall be installed a shutoff valve and waste cock 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 and the pipes drained. 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 the service to the others.
 - 8.15 **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 in Sec. 4.11 of this Title.
 - 8.16 **COMPLETION BY THE CITY.** Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the superintendent has the right to finish or correct the work, and the council will assess the costs to the property owner or the plumber. Assessments will be collected as provided for in Section 4.21 of this Title.

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- 8.17 SHUTTING OFF THE WATER SUPPLY. After giving reasonable notice, the superintendent may shut off the supply of water to any customer because of any substantial violation of this article. The supply shall not be turned on again until all violations have been corrected and the council has ordered the water to be turned on.
- 8.18 TURN ON FEE. The fee to turn on water service after it has been shut off due to a violation shall be twenty-five dollars (\$25.00).
- 8.19 OWNER RESPONSIBLE FOR MAINTENANCE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the property line or shut off 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.
- 8.20 FAILURE TO MAINTAIN. When any corporation cock or water service pipe from the curb stop to the building or structure becomes defective and leaks and the owner fails to repair the leak and any damage to street surface resulting from the leak, the city may do so and assess the costs to the property owner and if not paid within 30 days of billing, the City Clerk shall certify the cost to the County Treasurer to be collected in the same manner as taxes.

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

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 he/she shall keep a record of such approvals. If he/she refuses to approve the work, the plumber or property owner must proceed immediately to correct the work so that it will meet with his/her approval. 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.

- 8.21 WATER MAIN EXTENSION POLICY. A water main extension will be made by the city upon application by any person desiring service to his/her property who signs a contract for such service and pays the cost thereof through a connection charge or otherwise as required by this chapter. No water main will be extended beyond the city limits for commercial or residential purposes unless the applicant agrees to voluntarily petition for annexation simultaneously with such extension where the applicant's property is contiguous to the corporate limits, or agrees to so petition as soon as the applicant's property becomes contiguous to the city limits and files for future use such petition so conditioned.

Water mains will be extended beyond the city limits for any industrial establishment which will employ ten employees or more within one year of the extension over the above existing employment in the community, without annexation being required if it is shown that the industry needs the tax benefit, or if it is on property not contiguous to the city limits.

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If the water superintendent determines that no foreseeable need will occur for a public water main, and so recommends to the city council upon council approval, an applicant for service may be permitted to construct a private main in an undeveloped public right-of-way (i.e. no travelled way or no more than a graded and/or travelled vehicular way), provided the work shall meet the city requirements for installations in the public way, including placement in the standard location, protection of work, quality of construction, and backfilling. Such main shall originate in a meter and be the property of the owner who shall be responsible for maintenance in the same manner as with water service pipes. It shall be a condition of the contract for connection that the city will not reimburse the owner for such a main if it has to be replaced with a public main after five years or more use.

8.22 MAIN EXTENSION CHARGES. Water service shall be provided through an extension of a water main in the following cases:

1. For distances up to 50 feet beyond existing end of a city-owned main, upon request of a person who contracts to immediately tap the main upon the completion of the extension and who can be expected to use water service upon the completion of construction of the residence or commercial building or facility to be served...no connection charge.
2. Where two applicants, one on each side of a street make application at the same time under the same contract conditions as in "1." above, extension will be made for 100 feet...no connection charge.
3. Where a single tap is contemplated by an applicant for an extension exceeding 50 feet and it is not foreseeable that other customer taps will be applied for before construction is begun, the applicant shall deposit with the City Clerk a sum equal to the estimated cost of the extension required, as determined by the water superintendent, and enter into a contract providing for the deposit and any future rebates in accordance with the following provisions:
 - a. The city will refund any excess of deposit over the actual cost for the extension.
 - b. For each customer later connected to the main the city will rebate the proportional share (by feet of frontage) as set out in the contract, the cost of the extension to the original applicant, but not in excess of the final payment by that applicant, provided such connections are made within five years, after which time no rebates shall be paid. However, the applicant shall be entitled to a refund of the unpaid balance of the full amount deposited with the city whenever the revenue derived from the sale of water to customers directly connected to the extension is equal in each of two consecutive twelve (12) month periods within the five years following application to ten (10) percent of the total actual cost of the main extension. Customer is defined as the occupant of a one-family dwelling, a one-family portion of a two-family dwelling, or as a single

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commercial establishment contracting for water in its own name (and from its own meter).

4. The main extension shall be built to city standards and become the property of the city as it is installed. If the applicant hires the construction, the city shall inspect the work for compliance with city standards and may enforce the specifications.

- 8.23 WATER MAIN CONSTRUCTION STANDARDS. No water tap will be allowed for service to a property except when a public water main runs along the street in front of the property (unless an alley or easement is determined by the city to be the best approach to serving the property) and at least ten (10) feet beyond the side property line, extended, nearest to the supply side of the main.

The tap must be at least four (4) feet beyond that property line, extended, of the abutting property. No public main shall be less than four inches in diameter, but no such four-inch (4") main shall be extended more than two hundred (200) feet and only if no foreseeable and feasible user can be served beyond said 200 feet. The city reserves the right to put in the size of main required for an adequate system of mains in the future to provide fire flow and adequate pressure for reasonably foreseeable customer service. The main shall be installed and of the quality required by specifications adopted by the council upon recommendation of the water superintendent.

- 8.24 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved by the superintendent. If approval is refused, the plumber or property owner must immediately proceed to correct the work in order to meet approval.

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CHAPTER 3: WATER SERVICE

ARTICLE 9 - WATER METERS

- 9.01 PURPOSE. The purpose of this article is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.
- 9.02 METERS REQUIRED. All water furnished customers shall be measured through meters furnished and installed by the city. All new meters are required to have a Watts Series 7 Dual Check Valve installed prior to the meter mount, which will be provided and installed by the City.
(Code of Iowa, Sec. 384.84(1))

(Editor's Note: Ordinance 589 approved by Council on November 19, 2007 amended Meters Required).

- 9.03 FIRE SPRINKLER SYSTEM. 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.
- 9.04 LOCATION. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.
- 9.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter by the city.
- 9.06 METER REPAIRS AND COSTS. 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 consumer or property owner, then the property owner shall be liable for the cost of repairs.
- 9.07 RIGHT OF ENTRY. The superintendent is permitted to enter the premises of any consumer at any reasonable time to remove or change a meter.
- 9.08 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation and additional installation of any water meter, including non-sewer meters such as lawn irrigation meters. The fee charged shall be in accordance with the schedule of fees adopted by resolution of the Council. The fee for lawn irrigation meters shall be the cost of said meter plus ten (10%) percent of said cost.

(Editor's Note: Ordinance 575 approved by Council on September 16, 2002 amended installation fee).

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CHAPTER 3: WATER SERVICES

ARTICLE 10 - WATER RATES

- 10.01 SERVICE CHARGES. Each customer shall pay for water service provided him/her by the city based upon his/her use of water, as determined by meters provided for in Article 8 of this chapter. 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(1))
- 10.02 WATER RATES. See Appendix B of this Municipal Code.
- 10.03 RATES OUTSIDE THE CITY. Water service shall be provided any customer located outside the corporate limits of the city which the city has agreed to serve at 150% of the rates provided in Section 9.02. No such customer, however, will be served unless the customer has 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(2))
- 10.04 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer a deposit conditioned on guaranteeing the payment of bills for services. The deposit shall be refunded when the customer leaves the city limits provided all charges and bills due have been paid timely and in full. However, the city can require a new deposit upon the occurrence of circumstances requiring a shutoff of water service to the customer.
- 10.05 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all new or existing customers who are tenants, or others having no established credit record or who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be one hundred twenty-five dollars (\$125.00).
- 10.06 APPLYING DEPOSIT TO A BILL. If a person fails to pay any amount due for water, penalty or water goods or services as a result of moving out of the premises, the City Clerk may draw on the deposit for the amount of the arrears and the balance of the deposit, if any, shall be returned to the last known address of the customer, or to the customer in person. Where the customer pays all amounts due at the time of moving out of the city, the full amount of deposit shall be paid to the customer in person or by mail. Where the person fails to pay after a turn off the City Clerk may draw on the deposit for the amount of arrears, and the balance of the deposit held to apply on the succeeding deposit required at the same or other premises, and water shall not be turned on until the deposit is sufficient to meet the requirements under section 10.05 of this ordinance amendment.

If a deposit is not adequate to pay all arrears at time of the customer's moving from the premises the balance shall be rebilled and the bill sent to the last known address of the

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customer. Where such rebilling is not paid within 30 days from the mailing of the rebilling, the City Clerk shall turn the billing over to the city attorney for collection by whatever means the attorney deems appropriate. Where the customer applies for water service at a new premises the past due amount shall be paid and an adequate deposit made before the water may be turned on.

All payments out of the customer guarantee deposit fund shall be by check.

10.07 BILLING PERIODS FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the following:

1. METERS READ. Water meters shall be read monthly.
2. PAYMENT. All water charges are due on the tenth (10th) day of each month. The City Clerk shall mail the bill for water rates to the customer to be received by the customer by the first day of the month at the customer's mailing address.
3. LATE PAYMENT PENALTY. Charges not paid by the tenth of the month shall be deemed delinquent and a late penalty of ten percent (10%) of the total utility bill shall be added to the amount of the water fee.

10.08 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if the account for water service becomes delinquent by more than thirty (30) days:

1. The City may discontinue water service to the property for which the account is delinquent; provided prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twenty (20) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.
2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least ten (10) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account

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holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he/she shall notify the City Clerk in writing of his/her desire to appear within ten (10) days of the date of the notice sent by the City.

- b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
3. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
4. An exception to the procedure for certifying liens to the County Treasurer shall be that as described in Section 10.09.

10.09 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water services is separately metered and paid directly by the tenant, the rental property is exempt from a lien for delinquent charges if the owner or landlord has done the following:

1. The owner or landlord has given written notice to the City utility that the tenant is liable for all charges.
2. A deposit not exceeding the usual cost of ninety (90) days of water service has been paid to the City by the tenant.
3. The notice given to the City utility shall contain the name of the tenant responsible for the charges, the address of the property, and the date the tenant is to begin occupying the premises.

A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the City shall return the deposit to the tenant, provided that all water services charges are paid in full. The lien exemption for rental property does apply to charges made by the City for repairs to a water service if these repair charges become delinquent.

10.10 COMBINED SERVICE ACCOUNT. The City may combine charges for water service with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

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- 10.11 SHUTTING OFF WATER. The water superintendent, or his/her authorized assistant, may shut off the supply of water to the customer without notice when the customer is found to be using water consuming equipment in a manner adversely affecting the utility's system or its ability to serve others, such as cross-connections, back-siphonage, wastage to the extent of drastically reducing water pressure, or any other action so affecting the safety or proper operation of the system; and the water supply shall not be restored until the customer has corrected the condition. He/she may likewise shut off the water supply to a customer for violation of or noncompliance with the rules by said customer or for failure of the customer to permit the superintendent, or his/her authorized assistant, reasonable access to the customer's premises for the purposes enumerated in sections 9.06 and 9.07, provided the superintendent shall have given written notice allowing ten days from date of mailing or personal notice to comply. Such notice shall state that the customer has the right to appeal to the superintendent for an explanation of the action.
- 10.12 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The superintendent shall make a test of the accuracy of any water meter when requested in writing. If it is found that such meter overruns to the extent of two percent or more, the cost of the tests shall be paid by the city, and the city will credit on the next bill the overcharges collected since the last known date of accuracy, not to exceed thirty months. If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.
- 10.13 SERVICE INTERRUPTIONS. The municipality shall make all reasonable efforts to eliminate interruption of service, and when such interruptions occur will endeavor to re-establish service with the shortest possible delay. Whenever the service is interrupted for the purpose of working on the distribution system or the station equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.
- 10.14 CITY LIABILITY LIMITED. The municipality shall in no event be held responsible for claims made against it by reason of the breaking of any mains or service pipe, or by reason of any other interruptions of the supply of water caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruptions of service which in the opinion of the municipality may be deemed necessary.
- 10.15 BOILERS AND PRESSURE VESSELS. Customers having boilers and/or pressure vessels receiving a supply of water from the municipality must have a check valve on the water supply line and a vacuum valve on the streamline to prevent collapse in case the water supply from the municipality is discontinued or interrupted for any reason, with or without notice.
- 10.16 PERMIT REQUIRED. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb the waterworks or appurtenances thereof without first obtaining a written permit.

TITLE II

- 10.17 BOND REQUIRED. Before a permit may be issued, the person applying for such permit shall have executed unto the municipality and deposited with the clerk a corporate surety in the minimum sum of one thousand dollars (\$1,000.00) conditioned that he/she will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances pertaining to plumbing, waterworks or appurtenances. This bond shall state that the person will indemnify and save harmless the municipality and the owner of the premises against all damage, costs, expenses, outlays of claims of every nature and kind arising out of unskillfulness or negligence on his/her part in connection with plumbing, waterworks or appurtenances as prescribed in this chapter. Such bond shall remain in force as to all penalties, claims and demands that may have occurred thereunder prior to such expiration.
- 10.18 CLASSES OF PERMITS AND FEES. There shall be two (2) classes of permit applications: one for residential service, and the second for commercial and industrial service. In either case, the owner or his/her agent shall make application. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the inspector. A permit and inspection fee of five dollars (\$5.00) for a residential service connection and fifteen dollars (\$15.00) for a commercial or industrial service connection is filed.

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CHAPTER 4: STORM SEWER

ARTICLE 11 - STORM SEWER

- 11.01 STORM WATER DRAINAGE SYSTEM. The council may declare all or a certain portion of the city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as allowed by the Code of Iowa.

(Code of Iowa, Sec. 384.84)

- 11.02 REVENUE BONDS. The council may institute proceedings to issue revenue bonds for storm water drainage construction pursuant to the Code of Iowa.

(Code of Iowa, Sec. 384.84A)

TITLE II

CHAPTER 5: WELLS

ARTICLE 12 - WELL SITE CONTROL

12.01 PURPOSE. The public health and safety of the residents of the City of Hospers, Iowa, requires that the well sites from which the City of Hospers, Iowa, draws its water supply be protected from contamination by prohibiting certain structures and uses within any well site control zone. This ordinance shall constitute the Well Site Control Ordinance.

12.02 CONTROL ZONES ESTABLISHED. Control zones are hereby established to regulate the use of lands within radius distances from any public well from which the City of Hospers, Iowa, draws its water supply. The control zones consist of a radius drawn from the center of any of said public wells as follows:

- "Control Zone 1" - 50 feet
- "Control Zone 2" - 75 feet
- "Control Zone 3" - 100 feet
- "Control Zone 4" - 200 feet
- "Control Zone 5" - 300 feet
- "Control Zone 6" - 400 feet
- "Control Zone 7" - 1,000 feet

12.03 PROHIBITED USES FOR WELL SITE PROTECTION. No structure shall be permitted within the following well site control zones, nor shall any structure or land within said well site control zone be use, for any of the following purposes:

1. Control Zone 1: Basements, pits and sumps.
2. Control Zone 2: Sanitary sewer line, storm water drain line or wastewater drain line unless it is constructed of pipe meeting water main specifications.
3. Control Zone 3: The pasturage or enclosure of animals, septic tank, concrete vault, the application of animal wastes to land surface in the form of either solids or liquid or slurry, and the storage of silage in an earthen trench or pit.
4. Control Zone 4: The storage of animal wastes in a storage tank or stockpile for solids, the discharge to ground surface of sanitary or industrial wastewater, water treatment plant wastes, discharge from well house floor drains, mechanical wastewater treatment plant, cesspool, drains, mechanical wastewater treatment plant, cesspool, earth pit privy, soil absorption field, surface application of chemical to land, the storage of chemicals and minerals either above ground or below ground, cistern cemetery, private wells, flowing streams or other surface water bodies.

TITLE II

5. Control Zone 5: Land application of solid waste and irrigation of land with wastewater.
6. Control Zone 6: Sewer force main, lagoon and any similar structure used for the storage and/or processing of wastewater, and the storage of animal wastes in a lagoon or basin.
7. Control Zone 7: Solid waste disposal site.

12.04 NUISANCE - ABATEMENT. Any violation of this ordinance shall constitute a nuisance by definition and may be abated in accordance with the Nuisance abatement procedure as stipulated within this Municipal Code of Ordinances, Hospers, Iowa.

12.05 PENALTY. Any person, persons or group of persons, organizations, firms or corporations who shall be found guilty of any violation of this ordinance shall be fined in an amount not exceeding \$100.00 per day for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

12.06 CONSEQUENTIAL DAMAGES. Any person, persons or group of persons, organizations, firms or corporations found guilty of violation this ordinance shall be liable to the City of Hospers for any consequential expense, loss or damage occasioned to the City of Hospers by said violation.

12.07 PRIVATE WELLS — PERMIT REQUIRED.

1. No person shall construct a private well after September 1, 2002, within 300 feet of a municipal waterline, or own or use a private well constructed after September 1, 2002, unless a permit has been issued for the well by the city. The permit application shall be made with the Utilities Department on forms provided by the city.
2. In determining whether to issue a permit or not, the department shall consider the availability of public water to serve the facility; the estimated amount of water to be consumed; and the uses for which the water will be used.
3. A decision to grant or deny a permit shall be made within thirty days after application. If a permit is denied, a written notice of denial shall be given to the applicant. The reason for the denial shall be stated in the notice and the rights of the applicant to appeal the department's decision.
4. If a permit is denied, the applicant may appeal the department's decision to the city council. The appeal shall be made by written notice delivered to the city clerk within thirty days from the date of the department's denial. The council shall schedule a public hearing on the appeal within thirty days from the date of the appeal and upon failure to do so the denial shall be deemed affirmed by the council.

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5. If there is no appeal, the decision of the department is final. Where appeal is taken, the decision of the city council is final.

This section 12.07 shall have no application to private wells existing before September 1, 2002.

(Editor's Note: Ordinance 574 was approved by Council on September 9, 2002 and added Private Well Permits Required)

TITLE II

CHAPTER 6: FLOODPLAIN

ARTICLE 13 - FLOODPLAIN MANAGEMENT

13.01 STATUTORY AUTHORITY, FINDING OF FACT AND PURPOSE.

A. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

B. Findings of Fact

1. The flood hazard areas of Hospers 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. 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 flood plain causing increases in flood heights and velocities.

C. Statement of Purpose

It is the purpose of this ordinance to protect and preserve the rights, privileges and property of Hospers and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 13.01 B2 with provisions designed to:

1. 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. 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.

TITLE II

3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

13.02 GENERAL PROVISIONS.

A. Lands to Which Ordinance Apply

The provisions of this ordinance shall apply to all areas having special flood hazards within the jurisdiction of Hospers. For the purpose of this ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for the City of Hospers, as amended, which is hereby adopted and made a part of this ordinance.

B. Rules for Interpretation of Flood Hazard Boundaries

The boundaries of the special flood hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Council shall make the necessary interpretation.

C. 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 ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

D. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

E. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

F. Warning and Disclaimer of Liability

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The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Hospers or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

G. Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

13.03 STANDARDS FOR FLOOD PLAIN DEVELOPMENT. All uses shall meet the following applicable performance standards. Where needed, the Department of Natural Resources shall be contacted to compute 100-year flood elevation and floodway data.

A. All development within the special flood hazard areas shall:

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Structures:

1. New or substantially improved residential structures shall have the lowest floor (to include basement) elevated a minimum of one (1) foot above the 100-year flood level.
2. New or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure below the 100-year flood level is watertight with walls substantially impermeable to

TITLE II

the passage of water. A record of the certification indicating the specific elevation (in relation to the National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

3. All new and substantially improved structures:

a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- 1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided,
- 2) The bottom of all openings shall be no higher than one foot above grade,
- 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

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.

C. Factory-built homes:

1. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement.
2. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

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- D. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions shall meet the applicable standards of this section.
- E. Utility and Sanitary Systems
 - 1. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters.
 - 2. On-site waste disposal systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - 3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - 4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.
- F. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion.
- G. 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:
 - 1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters, or
 - 2. Be readily removable after flood warning.

TITLE II

13.04 ADMINISTRATION.

A. Appointment, Duties and Responsibilities of Flood Plain Administrator

1. The City Council is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
2. Duties of the Administrator shall include, but not necessarily be limited to the following:
 - a. Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
 - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
 - c. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
 - d. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been floodproofed.
 - e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a water course and submit evidence of such notifications to the Federal Emergency Management Agency.
 - f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

B. Flood Plain Development Permit

1. Permit Required - A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

TITLE II

2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
 - a. Description of the work to be covered by the permit for which application is to be made.
 - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - c. Indication of the use or occupancy for which the proposed work is intended.
 - d. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings.
 - e. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - f. For developments involving more than five (5) acres, the elevation of the 100-year flood.
 - g. Such other information as the Administrator deems necessary for the purpose of this ordinance.
3. Procedure for Acting on Permit - The Administrator shall make a determination as to whether the flood plain development, as proposed, meets the applicable provisions of Section 13.03 and shall approve or disapprove the application. In reviewing proposed development, the Administrator shall obtain, review and reasonably utilize any available flood plain information or data from Federal, State or other sources.

C. Subdivision Review

The Administrator shall review all subdivision proposals within the special flood hazard areas to assure that such proposals are consistent with the purpose and spirit of this ordinance and shall advise the City Council of potential conflicts. Flood plain development in connection with a subdivision (including installation of public utilities) shall require a Flood Plain Development Permit as provided in Section 13.04 B1. For proposals greater than 50 lots, the subdivider shall be responsible for providing flood elevation data.

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13.05 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

BASEMENT Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

DEVELOPMENT Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

FACTORY-BUILT HOME Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance, factory-built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

FACTORY-BUILT HOME

PARK OR SUBDIVISION A parcel (or contiguous parcels) of land divided into two or more factory-built home lots for sale or rent.

FLOOD A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

FLOODPROOFING Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

FLOODWAY The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

TITLE II

LOWEST FLOOR 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 13.03 B3.a and
- b) The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c) Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least 1.0 ft 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.

**SPECIAL FLOOD
HAZARD AREA**

The land within a community subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A on the Flood Insurance Rate Map.

STRUCTURE 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.

**SUBSTANTIAL
DAMAGE**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

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SUBSTANTIAL IMPROVEMENT

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 50 percent of the market value of the structure either (i) before the improvement or repair is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. 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.
- b) Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after (FIRM Date) shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

RECREATIONAL VEHICLE

A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

100-YEAR FLOOD

A flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.

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TITLE III

TITLE III - PUBLIC ORDER PROTECTION AND LAW ENFORCEMENT

Editor's Note: The Sioux County Sheriff's Department provides law enforcement protection and services for the City of Hospers by means of a contractual agreement with the City of Hospers.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 1 - PUBLIC PEACE

1.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against the public peace and providing for their abatement.

1.02 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)

1.03 AFFRAY. It shall be unlawful for two (2) or more persons voluntarily or by agreement to engage in any fight, or use any blows or violence towards each other in an angry or quarrelsome manner, in any public place, to the disturbance of others.

1.04 UNLAWFUL ASSEMBLY. An unlawful assembly is three (3) or more persons assembled together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable grounds to believe that it is such, commits a simple misdemeanor.

(Code of Iowa, Sec. 723.2)

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1.05 DISORDERLY CONDUCT. A person commits a simple misdemeanor when the person does any of the following:

1. **FIGHTING.** Engages in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.
(Code of Iowa, Sec. 723.4(1))
2. **NOISE.** Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.
(Code of Iowa, Sec. 723.4(2))
3. **ABUSIVE LANGUAGE.** Directs abusive epithets or makes any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
(Code of Iowa, Sec. 723.4(3))
4. **DISRUPT LAWFUL ASSEMBLY.** Without lawful authority or color of authority, the person disturbs any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.
(Code of Iowa, Sec. 723.4(4))
5. **FALSE REPORTS.** By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
6. **DISRESPECT OF FLAG.** Knowingly and publicly uses 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 STREETS.** Without authority or justification, the person obstructs any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
(Code of Iowa, Sec. 723.4(7))
8. **FUNERAL OR MEMORIAL SERVICE.** A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:
 - a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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- b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

- 1.06 UNLAWFUL ASSEMBLY AND RIOT. 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)

- 1.07 TEMPORARY CIVIL DISORDER. The following shall apply:
(Code of Iowa, Sec. 372.14(2))

1. DECLARATION. The mayor may declare a state of civil disorder within the city or its parts if he/she has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.
2. TEMPORARY RESTRICTIONS. The mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the city is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.
 - c. Order the cessation of the sale or other distribution of explosives or flammables.
 - d. Order the closing of all or some public parks, public streets or other public places during specified hours.

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- e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.
3. **TERMINATION.** Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the mayor's declaration of civil disorder, or upon his/her declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the mayor may be extended by successive resolutions of the council for additional time periods. The period of any one extension shall not exceed five (5) days.
- 1.08 **PARADES.** No person shall conduct or cause any parade on any street except as provided in this section.
- 1. **DEFINITION.** "Parade" shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized manner, or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
 - 2. **PERMIT.** No parade shall be conducted without a written permit obtained from the mayor or police chief in the mayor's absence. Such permit shall state the time, date and general route of the parade, and no permit fee shall be required. The written permit granted to the sponsors or organizers of the parade shall be permission for participants invited by the permittee to parade. Any denial of a permit may be appealed to the Council.
 - 3. **PARADE NOT A STREET OBSTRUCTION.** Any parade authorized by a permit and in which the persons are lawfully participating shall not be deemed a street obstruction, notwithstanding the provisions of any other ordinance to the contrary.
 - 4. **CONTROL BY POLICE AND FIREMEN.** Parade participants shall be subject at all times to the lawful orders and directions of police and fire department members in the performance of their duties.
- 1.09 **FAILURE TO DISPERSE.** A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

(Code of Iowa, Sec. 723.3)

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1.10 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 a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.
(Code of Iowa, Sec. 708.7)
 - c. Orders merchandise or services in the name of another, or to be delivered to another, without the 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 act 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.
(Code of Iowa, Sec. 708.7(2))

1.11 NOISE GENERALLY. It is a violation to disturb the peace with excessive, loud or unusual noise by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking device or noisemaker, or by the muffler from a vehicle or the revving of an engine.

1.13 TIRE NOISE. It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud or unusual noise to come from the tires of said vehicle.

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- 1.13 LOUD, UNNECESSARY OR UNUSUAL NOISE: Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue or cause to be made or continued any loud, excessive offensive, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person or normal sensitivities residing in the area by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle, or by revving an engine or excessive noise caused by a vehicle's exhaust.

The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device, or the revving of an engine or audible sound of vehicles muffler in such a manner so as to be audible at a distance of two hundred (200') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

1.14 DISORDERLY HOUSE.

1. Definition. The term "disorderly house" means any structure or any room therein, or any part of the premises adjacent therefrom, in or upon which occurs any disorderly conduct as defined in Section 1.05 of this Article or any of the following prohibited activities:
 - a. The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
 - b. Gambling in violation of Chapter 99B of the Iowa Code;
 - c. Dispensing, selling or consumption of an alcoholic beverage in violation of Chapter 123 of the Iowa Code;
 - d. Acts of prostitution, pimping or pandering as defined in Chapter 725 of the Iowa Code;
 - e. Engaging in a massage therapy business without a license.
2. Keeping a Disorderly House. It is unlawful for any person to knowingly keep a disorderly house as defined in this section. For purposes of this section, "keep" means ownership or having the control of a structure or a room therein or any part of the adjacent premises.

Frequenting or Being Found in a Disorderly House. It is unlawful for any person to frequent or be found in a disorderly house as defined in this section.

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

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1.16 TEMPORARY CIVIL DISORDER. The following shall apply:
(Code of Iowa, Sec. 372.14(2))

1. **DECLARATION.** The Mayor may declare a state of civil disorder within the City or its parts if the Mayor has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.
2. **TEMPORARY RESTRICTIONS.** The Mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the City is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.
 - c. Order the cessation of the sale or other distribution of explosives or flammables.
 - d. Order the closing of all or some public parks, public streets or other public places during specified hours.
 - e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.
3. **TERMINATION.** Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the Mayor's declaration of civil disorder, or upon the Mayor's declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the Mayor may be extended by successive resolutions of the Council for additional time periods. The period of any one extension shall not exceed five (5) days.

TITLE III

CHAPTER 1 MISDEMEANORS

ARTICLE 2 - PUBLIC MORALS

- 2.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public morals and providing for their abatement.
- 2.02 PROSTITUTION. It shall be unlawful for any person to engage in, assist, or in any manner promote prostitution within the city.
- 2.03 BLASPHEMOUS OR OBSCENE LANGUAGE. It shall be unlawful for a person to use blasphemous or obscene language publicly, to the disturbance of the public peace and quiet.
- 2.04 INTOXICANTS AND INTOXICATION. The following shall be unlawful:
1. ILLEGAL KEEPING OF INTOXICANTS. To operate, conduct, or allow to be operated a place where intoxicating liquor is illegally kept, sold or given away.
 2. CONSUMPTION IN PUBLIC PLACES. 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 a public or private school-related function. A person shall not be intoxicated in a public place.

Exception for certain city-owned parks: beer and wine may be consumed in Southside Park Campground by persons of legal age. However, consumption of these beverages is not permitted on roads or in parking areas.

The definition of “alcoholic liquor” for purposes of this ordinance shall be identical to the definition in Iowa Code Section 123.46(2).

(Ordinance 606, approved April 3, 2017.)

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2.05 INDECENT EXPOSURE. No person shall expose those parts of his/her or her body listed herein to another in any public place, or in any place where such exposure is seen by another person or persons in any public place.

1. PROHIBITION. Exposure of the following in a public place is prohibited:
 - a. A woman's nipple, or aureole, or full breast, except as necessary in the feeding of any infant under the age of thirty-six (36) months.
 - b. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting those body parts of an infant of either sex.
2. EXEMPTION. This section shall not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or other such places where such exposures occur incident to the prescribed use of those facilities, nor shall it apply to exposures occurring in live stage plays, live theatrical performances, or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 3 - MINORS

3.01 DEFINITIONS. The following terms shall have the meanings defined below:

1. "MINOR" shall mean a person less than eighteen (18) years of age.
2. "LEGAL AGE" shall be as set forth in section 123.3(33) and 123.47A of the Code of Iowa.

3.02 MINORS IN TAVERNS. It shall be unlawful for any person under legal age to enter, remain in, or frequent a business establishment holding a retail liquor or beer permit unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods.

3.03 SUPPLYING LIQUOR TO MINORS. It shall be unlawful for any person to sell, give or otherwise supply liquor or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to him/her by a physician or dentist for medicinal purposes.

(Code of Iowa, Sec. 123.47A)

3.04 CURFEW. A curfew is established to regulate the hours minors can be or remain upon the alleys, streets, other public places, and in places of business and amusement in this city. The following shall pertain to the curfew:

1. TIME LIMITS. It is unlawful for any minor to be or remain in or upon any of the alleys, streets or public places or places of business and amusement in the city between the hours of midnight and 5:00 a.m. of the following day. It is unlawful for any minor under the age of sixteen (16) to be or remain upon any of the alleys, streets or public places or places of business and amusement in the city between the hours of 10:30 p.m. and 5:00 a.m.
2. EXCEPTIONS. The restriction provided by subsection 3.04(1) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over 18 years of age, nor shall the restriction apply to any minor who is traveling between his/her home or place or residence and the place where any approved place of employment, church, municipal or school function is being held.

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3. **RESPONSIBILITY OF ADULTS.** It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 1, except as otherwise provided in Subsection 2.
(Code of Iowa, Sec. 613.16)
 4. **RESPONSIBILITY OF BUSINESS ESTABLISHMENTS.** It is unlawful for any person, firm or corporation operating a place of business or amusement to allow or permit any minor to be in or upon the place of business or amusement operated by them within the curfew hours set by subsection 1, except as otherwise provided in subsection 2.
 5. **ENFORCEMENT.** Any peace officer of this city while on duty is empowered to arrest any minor who violates any of the provisions of this section. Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor. If a minor violates the provisions of this section more than two times within a twelve-month period, the peace officer shall charge the minor with a simple misdemeanor and prosecute the charge before a magistrate having jurisdiction.
 6. **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.
- 3.05 **SUPPLYING ALCOHOL TO MINORS.** It shall be unlawful for any person to sell, give or otherwise supply liquor, wine or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by a physician or dentist for medicinal purposes.
(Code of Iowa, Sec. 123.47A)
- 3.06 **POSSESSION OF TOBACCO PRODUCTS BY MINORS.** It shall be unlawful for any person under eighteen 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 (2 & 3))

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- 3.07 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)

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 4 - PUBLIC HEALTH AND SAFETY

4.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public health and safety and providing for their abatement.

4.02 DISCHARGING WEAPONS.

1. It shall be unlawful for a person or corporation to discharge or fire any cannon, bomb, rifle, shotgun, revolver, pistol, gun, or a firearm of any kind, or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive within the city limits except by a police/peace officer in the line of duty, or as excepted by Section 4.04 Consumer Fireworks in within this Article. No person shall intentionally discharge a firearm in a reckless manner.
2. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.
3. In the interest of public health and safety and at such times as approved by the Mayor, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
4. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.
5. No person shall shoot, fire or discharge any airgun or BB gun under authority of this section in such fashion that the discharged pellet, projectile or BB travels beyond the building in which such airgun or BB gun is fired or, for outdoor shooting, beyond the boundaries of the designated shooting area in which the person is shooting.

TITLE III

4.03 DISPLAY FIREWORKS. The City Council, pursuant to section 727.2 of the Code of Iowa as amended, upon application in writing upon forms provided by the city clerk, may grant a permit for the display of fireworks ("Display Fireworks") by municipalities, fair associations, amusement parks and other organizations or groups of individuals; provided, such fireworks displays will be handled and supervised by a competent operator with prior experience in the handling of fireworks displays and who provides proof of certification by ATF, the State of Iowa, or a certificate of compliance issued by the Pyrotechnic Guild. The denial of a permit may be appealed to the city council.

1. CRITERIA. In approving or denying a request for a permit to conduct a fireworks display, the council shall consider:
 - A. The type and nature of displays;
 - B. The location;
 - C. The anticipated or invited attendance;
 - D. The qualifications of the operator;
 - E. Safety and fire protection planning; and
 - F. All other factors relevant to a particular application.

Different criteria apply to pyrotechnics before a proximate crowd and outdoor displays. Applicable standards include IFC chapter 33; NFPA 1123, 1126; ATF safe firework practices.

2. PERMIT FEE. No permit fee shall be required for a fireworks permit if the fireworks display is open to the public without charge. If the fireworks display is presented at an event to which admission is charged, a permit fee of fifty dollars (\$50.00) is required.
3. LIABILITY INSURANCE. An applicant for a fireworks permit shall provide a certificate of liability insurance for the specific event with a single limit of not less than two million dollars (\$2,000,000.00) naming the city of Hospers, its officers, agents and employees as additional insureds.
4. A person, firm, partnership, or corporation who offers for sale, exposes for sale, sells at retail, or uses or explodes any display fireworks, commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. However, the a city council of a city or a county board of supervisors may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the city or the county board of supervisors when the display fireworks display will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa state fairgrounds by the Iowa state fair board, at

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incorporated county fairs, or at district fairs receiving state aid. Sales of display fireworks for such display may be made for that purpose only.

5. A person who uses or explodes display fireworks while the use of such devices is prohibited or limited by an ordinance or resolution adopted by the county or city in which the firework is used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

4.04 CONSUMER FIREWORKS.

1. DEFINITIONS.

- a. "Consumer fireworks" includes first-class consumer fireworks and second-class consumer fireworks as those terms are defined in section 100.19, subsection 1. "Consumer fireworks" does not include novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1 or display fireworks enumerated in chapter 4 of the American pyrotechnics association's standard 87-1
(Code of Iowa 727.2)
- b. "First-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:
 - (1) Aerial shell kits and reloadable tubes.
 - (2) Chasers.
 - (3) Helicopter and aerial spinners.
 - (4) Firecrackers.
 - (5) Mine and shell devices.
 - (6) Missile-type rockets.
 - (7) Roman candles.
 - (8) Sky rockets and bottle rockets.
 - (9) Multiple tube devices under this paragraph "c" that are manufactured in accordance with APA 87-1, section 3.5.
(Code of Iowa, Sec. 100.19)
- c. "Novelties" includes all novelties enumerated in chapter 3 of the American pyrotechnics association's standard 87-1, and that comply with the labeling regulations promulgated by the United States consumer product safety commission
(Code of Iowa 727.2)
- d. "Second-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:
 - (1) Cone fountains.
 - (2) Cylindrical fountains.
 - (3) Flitter sparklers.

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- (4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
- (5) Ground spinners.
- (6) Illuminating torches.
- (7) Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
- (8) Wheels.
- (9) Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

(Code of Iowa, Sec. 100.19)

2. SALE OF CONSUMER FIREWORKS TO THE PUBLIC.

(Code of Iowa, Sec. 100.19)

- a. The state fire marshal shall establish a consumer fireworks seller license. An application for a consumer fireworks seller license shall be made on a form provided by the state fire marshal. The state fire marshal shall adopt rules consistent with this section establishing minimum requirements for a retailer or community group to be issued a consumer fireworks seller license.
- b. A person shall possess a consumer fireworks seller license under this section in order to sell consumer fireworks.
- c. A person who violates a provision of this section 4.04(2) or Code of Iowa, Section 100.19 or a rule adopted pursuant to this section of the Code of Iowa is guilty of a simple misdemeanor

3. USE, POSSESSION, OR EXPLODE CONSUMER FIREWORKS. A person or a firm, partnership, or corporation may possess, use, or explode consumer fireworks in accordance with this the following:

Code of Iowa, Sec. 727.2)

- a. AT LEAST 18 YEARS OF AGE. A person, firm, partnership, or corporation who sells consumer fireworks to a person who is less than eighteen years of age commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. A person who is less than eighteen years of age who purchases consumer fireworks commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).
- b. A person who uses or explodes consumer fireworks or novelties while the use of such devices is prohibited or limited by an ordinance adopted by the county or city in which the fireworks are used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

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- c. A person who uses or explodes consumer fireworks or novelties while the use of such devices is suspended by an order of the state fire marshal commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00).

2. LIMITATIONS – CONSUMER FIREWORKS.

(Code of Iowa, Sec. 727.2)

- a. A person shall not use or explode consumer fireworks on days other than the period from the Friday prior to July 4 to July 8 and from December 30 through January 3 of each year, all dates inclusive.
- b. A person shall not use or explode consumer fireworks at times other than between the hours of 12:00 p.m. noon and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
 - (1) Between the hours of 12:00 noon and 11:00 p.m. on July 4 and the Saturday and Sunday immediately preceding and following July 4.
 - (2) Between the hours of 12:00 p.m. on December 31 and 12:30 a.m. on the immediately following day.
- c. A person shall not use consumer fireworks on real property other than that person's real property or on the real property of a person who has consented to the use of consumer fireworks on that property.
- d. A person who violates this subsection commits a simple misdemeanor. A court shall not order imprisonment for violation of this subsection.

- 4.05 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or across any street, highway, alley, sidewalk or public place.
- 4.06 SPITTING. It shall be unlawful for a person to spit within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.
- 4.07 SALE OF TAINTED FOOD. It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.

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- 4.08 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or structure, under his/her or their control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, ice box or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.
(Iowa Code, Sec. 727.3)
- 4.09 ANTENNA AND RADIO WIRES. It shall be unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, or public property.
(Code of Iowa, Sec. 364.12(2))
- 4.10 BARBED WIRE AND ELECTRIC FENCE. It shall be unlawful for a person to use barbed wire or electric fence to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.
- 4.11 DISTRIBUTING DANGEROUS SUBSTANCES. Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor 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)
- 4.12 FALSE ALARMS. It is unlawful for a person to:
1. By words or action, initiates or circulates a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.
(Code of Iowa, Sec. 723.4(5))
 2. A person who reports or causes 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 who reports the alleged occurrence of a criminal act knowing the act did not occur.
(Code of Iowa 718.6(1))
 3. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance.
(Code of Iowa 718.6(2))

TITLE III

4. A person who knowingly provides false information to a law enforcement officer who enters the information on a citation commits a simple misdemeanor, unless the criminal act for which the citation is issued is a serious or aggravated misdemeanor or felony, in which case the person commits a serious misdemeanor.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 5 - PUBLIC PROPERTY

- 5.01 PURPOSE. The purpose of this article is to define and prohibit offenses against public property and provide for their abatement.
- 5.02 DEFACING PUBLIC GROUNDS. It shall be unlawful for a person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.
(Code of Iowa, Sec. 364.1&364.12(2))
- 5.03 PUBLIC BUILDINGS. It shall be unlawful to willfully write, make marks, or draw characters on the walls or any other part of any church, college, academy, schoolhouse, courthouse, or other public building, or on any furniture, apparatus, or fixture therein; or to willfully injure or deface the same, or any wall or fence enclosing the same.
- 5.04 DAMAGE TO PUBLIC OR UTILITY PROPERTY. It shall be unlawful for a person to maliciously injure, remove, or destroy any railway or apparatus belonging thereto; or any bridge or railroad; or place, or cause to be placed, any obstruction on any railway, or on any bridge or railroad; or willfully obstruct or injure any public road or highway; or maliciously cut, burn or in any way break down, injure, or destroy any post or pole used in connection with any system of electric transmission or distribution, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break, or injure the wires of any apparatus belonging thereto; or to willfully tap, cut, injure, break, disconnect, connect, make connection with or destroy any of the wires, mains, pipes, conduits, meters, or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant, or water plant; or to aid or abet any other person in so doing.
(Code of Iowa, Sec. 716.1)
- 5.05 DEFACING PROCLAMATIONS OR NOTICES. It shall be unlawful for a person to intentionally 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 this 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)
- 5.06 INJURY TO FIRE APPARATUS. It shall be unlawful for a person to willfully destroy or injure any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires.
(Code of Iowa, Sec. 716.1)

TITLE III

- 5.07 DESTROYING PARK EQUIPMENT. It shall be unlawful for a person to destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.
(Code of Iowa, Sec. 716.1)
- 5.08 INJURING NEW PAVEMENT. It shall be unlawful for a person to injure new pavement in any street, alley or sidewalk by willfully driving, walking, or making marks on such pavement before it is ready for use.
(Code of Iowa, Sec. 364.12)
- 5.09 OBSTRUCTING DRAINAGE. It shall be unlawful to divert, obstruct, impede or fill up, without legal authority, ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.
(Code of Iowa, Sec. 716.1)
- 5.10 CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act, and shall be unlawful.
(Code of Iowa, Sec. 716.1)
- 5.11 UNAUTHORIZED ENTRY. No person shall enter any public building or public enclosure unless authorized to do so. An entry into public buildings and enclosures shall be considered to be unauthorized when said buildings or enclosures are closed and secured against entry and not open to the public. When open to the public, a failure to pay a required admission fee, if any, shall also constitute an unauthorized entry. For the purpose of this section, public buildings and enclosures shall include all city facilities including, but not limited to the following: swimming pool, municipal utility building, community building, fire station, maintenance buildings, shelter houses, rest rooms, animal pens and all other buildings and enclosures at city parks.
- 5.12 SIDEWALKS AND RIGHT-OF-WAY. It shall be unlawful for a person to damage public right-of-way or sidewalks, dig into or in any manner break any sidewalk, curb, pavement, street, alley or public ground without replacing the same in as good condition as found.
- 5.13 REMOVAL OF HYDRANT CAPS, SEWER CAPS OR MANHOLE COVERS. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 6 - PRIVATE PROPERTY

6.01 TRESPASSING. It is unlawful for a person to trespass onto the property of another. As used in this section, the term "*property*" shall include 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:

1. **ENTER PROPERTY WITHOUT PERMISSION.** Enter upon or in private property without legal justification or without the implied or actual 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, without the implied or actual permission of the owner, lessee, or person in lawful possession.
(Code of Iowa, Sec. 716.7)
2. **VACATE PROPERTY WHEN REQUESTED.** Enter or remain upon or in private property without legal 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)
3. **INTERFERE WITH LAWFUL USE OF PROPERTY.** Enter upon or in private 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)
4. **USE OF PROPERTY WITHOUT PERMISSION.** Be upon or in private property and use, remove therefrom, alter, damage, harass, or place 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)

The term "*trespass*" shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This section does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

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

TITLE III

- 6.02 DAMAGE TO PROPERTY. It shall be unlawful to cut, hack, break, deface or otherwise injure any ornamental or shade tree, fence, private building, railing or other property.
(Code of Iowa, Sec. 716.1)
- 6.03 TELEPHONE OR COMMUNICATION WIRE TAP. Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, commits a serious misdemeanor; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.
(Code of Iowa, Sec. 727.8)
- 6.04 THEFT. No person shall take possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof. It is punishable as a simple misdemeanor under the City Code when the reasonable dollar amount of the property stolen is in line with the present Iowa Code Sec. 714.2, as amended.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 7 - EXECUTION OF PROCESS

- 7.01 RESISTING EXECUTION OF PROCESS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under Chapter 147A, Code of Iowa, 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 under Chapter 147A Code of Iowa, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars (\$250.00). However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor.

(Code of Iowa, Sec. 719.1)

- 7.02 RESISTING ARREST. A person is not authorized to use force to resist an arrest, either of the person's self, or another which the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful or the arrest is in fact unlawful.

(Code of Iowa, Sec. 804.12)

- 7.03 REFUSING TO ASSIST AN 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. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.

(Code of Iowa, Sec. 719.2)

- 7.04 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any peace officer, fireman, officer, or city official in the discharge of his/her duty.

- 7.05 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees.

(Code of Iowa, Sec. 718.4)

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CHAPTER 2: NUISANCES

ARTICLE 8 - GENERAL PROVISIONS

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

1. "NUISANCE" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
(Code of Iowa, Sec. 657.1)
2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.
(Code of Iowa, Sec. 364.12(1))

8.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

1. Offensive smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
(Code of Iowa, Sec. 657.2(1))
2. Filth or noisome substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
(Code of Iowa, Sec. 657.2(2))
3. Water pollution. The corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
(Code of Iowa, Sec. 657.2(4))
4. Blocking public and private ways. The obstructing or encumbering by fences, buildings or otherwise the public roads, private ways, streets, alleys, commons, landings, places or burying grounds.
(Code of Iowa, Sec. 657.2(5))
5. House of ill fame. Houses of ill fame, kept for the purpose prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
(Code of Iowa, Sec. 657.2(6))

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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.
(Code of Iowa, Sec. 657.2(7))
7. Airport air space. Any object or structure hereafter erected within one thousand (1000) 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.
(Code of Iowa, Sec. 657.2(8))
8. Cotton-bearing trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.
9. Storing of inflammable junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper by dealers in such articles within the fire limits of the city, unless it be in a building of fireproof construction.
(Code of Iowa, Sec. 657.2(9))
10. Air pollution. The emission of dense smoke, noxious fumes or fly ash.
(Code of Iowa, Sec. 657.2(10))
11. Obstruction of drainage. Any article or substance placed upon any street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the same.
12. Dense growth of all weeds, vines, brush, or other vegetation in any city so as to constitute a health, safety, or fire hazard is a public nuisance.
(Code of Iowa, Sec. 657.2(11))
13. Dutch elm disease. Trees infected with dutch elm disease.
(Code of Iowa, Sec. 657.2(12))
14. Obstruction of view. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
15. Trash piles. Accumulation of rubbish or trash tending in nature to harbor or attract vermin, rodents, or other disease-carrying pests, animals or insects, or to spread or harbor disease, emit unpleasant odors or harmful gas or creating a hazard of fire.
16. Septic effluent. Effluent from a septic tank or drainage field running or ponding on the ground in the open, including in ditches.

TITLE III

17. Ponding water. An accumulation of water until it becomes stagnant.
18. The open storage on private property which is residentially zoned of any two (2) or more vehicles parts including but not limited to bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields, or windows, wheels, batteries, or any other structural, mechanical or decorative vehicle parts.
19. Accumulations of refuse or the maintenance of a private dump in violation of city ordinances.
20. All buildings, walls and other structures which are structurally unsafe, constitute a fire hazard or are otherwise dangerous to human life, constituting a hazard to self-safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard or abandonment.
21. Junked vehicles and machinery as defined under City Ordinances.
22. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing 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.
23. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.
24. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of its location, inadequate maintenance or dilapidation, or is not kept in good repair, or is capable of causing electric shocks to persons likely to come in contact with it, or which obstructs free ingress or egress from a required door, window, fire escape or other required exit-way.
25. Signs accessible to the general public containing statements, words or pictures of an obscene or pornographic character.
26. Residential or non-residential structures, the condition of which constitutes a hazard to safety or to health as determined by the building official or his or her designee.
27. Unoccupied buildings or sheds found to be frequently open or accessible and vacated for more than six months.
28. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.

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29. Noise Pollution. Any sound which disturbs human or which causes or tends to cause an adverse psychological or physiological effect on humans.
30. Litter. Any decomposable or non-decomposable solid or other waste material.
31. Dead growth of all weeds, grass, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, or which otherwise constitutes a nuisance under this chapter. For purposes of this paragraph, all growths or weeds in excess of nine inches (8") in height shall be deemed to be a nuisance. Exempt from this paragraph are growths used primarily for educational and/or research purposes, so long as the growths are controlled. (See Title III, Chapter 4, Article 14 Weeds.)
32. Structures damaged by Fire or Decay. All buildings and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (1/2) of their original value and which are so situated as to endanger the safety of the public.
33. Permitting or allowing the illumination of flood lights, yard lights or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.
34. Farm Animals & fowl. Except in areas zoned Agricultural and if the City's zoning ordinance allows for farm animals and fowl in agricultural zones, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses or ponies.
35. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
36. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, cans, or containers.
37. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals or insects.
38. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free-standing material makes with the horizontal plane without slipping, sliding or collapse of the material.

This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.

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39. No person shall store or permit to be stored dirt, sand, gravel, debris or similar materials on a property unless said dirt or other materials shall be leveled and the lot brought to uniform grade consistent with surrounding lots. As an exception to the foregoing, the following uses are permitted:
- a. Materials stored in bulk which are to be used as a part of the normal operations of a legally permitted landscaping business for use on other lots or to be sold on premises.
 - b. Dirt, sand, gravel and other materials may be stored in mounds for a period not to exceed three (3) months or the term of a building permit on a property in anticipation of construction on that lot, or in connection with construction on a neighboring lot, but for no other purpose.
40. Failure to establish a permanent cover of perennial grasses on any non-farm property or adjacent unpaved public right-of-way as soon as practical after any construction on the lot and adjacent right of way, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gully, or by wind or water. Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control. Additionally, if permanent grass cover fails to establish itself on the right of way, due to road salt, sand and other winter maintenance procedures, then ornamental rock cover may be established, subject to the approval of the Council or designee of the Council.
41. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
42. **BUILDING MAINTENANCE.** All buildings shall be maintained to be weather and watertight. Broken windows, holes in roofs, and missing siding shall be replaced with similar materials to maintain the weather and watertight properties of the structure. All wood including floorboards, decking, subfloors, joists, rafters, roof sheathing, and siding shall be replaced when missing, rotted or damaged. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of house or building. Their appearance, as judged under prevailing appraisal practices and standards. Owners or responsible parties shall not use materials which would depreciate the value of adjoining premises or the neighborhood. Painted surfaces shall be maintained or repainted so that an individual wall surface does not have peeling or missing paint in areas in excess of fifty percent (50%) of that individual surface area.

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43. Collection of Grass on a Public Street. No person shall dump, blow, toss, place or distribute or otherwise cause to be distributed grass, weeds, or vegetation placed on the public streets or roadway. If grass, weeds, or vegetation is placed on the public streets or roadways, the person responsible for such activity or the property owner of the property where said grass, weeds, or vegetation originated shall immediately remove or cause to be removed the collected grass, weeds, or vegetation. However, this provision shall not be construed to mean that persons who place leaves on the curb during the Fall season for pick up by city constitutes a nuisance.

(Ordinance 601, approved August 17, 2015 added subsection 8.02(44))

44. FRONT YARD PARKING REGULATIONS. It shall be unlawful for any person, corporation or legal entity to park a motor vehicle, vehicle, or recreational vehicle in the front yard of any residential lot unless the motor vehicle, vehicle or recreational vehicle is parked completely upon a driveway, driveway extension or combination thereof, or in a permanent roofed enclosed structure. However, this provision shall not apply to motor vehicles or vehicles being used to move, deliver or take articles to and from a yard, building or structure located thereon, or used in connection with providing a temporary service thereon, for a reasonable amount of time while in the active process of said use, or for snowmobiles parked in the front yard from November 1st to April 1st. Motor vehicles prohibited from being parked or placed in the front yard, include, but are not limited to trucks, cars, semis, converted trucks and buses, automobiles, motor homes (RV's). Prohibited vehicles or recreational vehicles shall include, but are not limited to, travel trailers, camper trailers, boats, personal watercraft, snowmobiles, trailers, ATV's, UTV's, and other recreational based vehicles.

45. Motor Vehicles, vehicles and Recreational vehicles such as, but not limited to, cars, trucks, automobiles, ATV's, UTV's, camper trailers, campers, motor homes (RV's), snowmobiles, boats, boat trailers and personal watercraft shall not be permitted to be stored within side yards during anytime of the year. Snowmobiles stored outdoors during the period of April 1st to October 30th shall only be stored in the rear yard. Boats, boat trailers, personal watercraft, campers, camper trailers, motor homes (RV's) stored outdoors may be parked or stored on the front driveway during the period of April 1st to November 30th.

- 8.03 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.

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8.04 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this chapter:

1. REMOVAL OF DISEASED TREES. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.
(Code of Iowa, Sec. 364.12(3b))
2. REMOVAL OF STRUCTURES. The removal, repair or dismantling of a dangerous building or structure.
(Code of Iowa, Sec. 364.12(3c))
3. NUMBERING OF BUILDINGS. The numbering of buildings.
(Code of Iowa, Sec. 364.12(3d))
4. DRAINAGE CONNECTIONS. The connection to public drainage systems from abutting property when necessary for public health or safety and protection of property.
(Code of Iowa, Sec. 364.12(3e))
5. SANITARY FACILITIES. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
(Code of Iowa, Sec. 364.12(3f))
6. DESTRUCTION OF WEEDS. The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
(Code of Iowa, Sec. 364.12(3g))
7. MAINTENANCE. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fourteen (14) foot clearance above the street from trees extending over the streets and eight (8) feet clearance above sidewalks from trees, except as provided in Section 8.04(1) in this Article.

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CHAPTER 2: NUISANCES

ARTICLE 9 - ABATEMENT PROCEDURE

- 9.01 NUISANCE ABATEMENT. Whenever the mayor or other authorized municipal officer finds that a nuisance exists or a condition needs to be corrected, he/she 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))

- 9.02 NOTICE TO ABATE. The notice to abate shall contain:

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

1. DESCRIPTION OF NUISANCE. A description of what constitutes the nuisance or other condition.
2. LOCATION. The location of the nuisance or condition.
3. ACTS NECESSARY TO ABATE. A statement of act or acts necessary to abate the nuisance or condition.
4. REASONABLE TIME. A reasonable time within which to complete the abatement. If the nuisance or condition is dense grass, weeds, vine or brush, a reasonable time to abate shall be 48 hours after the notice is provided.
5. ASSESSMENT AT 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.
6. PENALTY FOR FAILURE TO ABATE. A statement that if the nuisance or condition is not abated as directed and no request for a hearing is made within the time prescribed, the person shall be in violation of the Hospers City Municipal Code and guilty of a fine of \$100 plus court costs.

(Ordinance 600, approved August 17, 2016 amended Section 9.02)

- 9.03 METHOD OF SERVICE. The notice may be served by ordinance, certified mail, or personal service to the property owner as shown by the records of the County Auditor.

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

- 9.04 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 City Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists, and it must be abated as ordered. The hearing will be before the council at a time and place fixed by the council. The

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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.

- 9.05 ABATEMENT IN EMERGENCY. If it is determined that an emergency or danger 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 council shall assess the costs after notice to the property owner and hearing on the costs incurred by the city to abate the nuisance or condition.

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

- 9.06 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 City Clerk who shall pay such expenses on behalf of the city.

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

- 9.07 COSTS OF ABATEMENT. The following shall apply to abatement procedure:

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

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

2. INSTALLMENT PAYMENT. If the amount expended to abate the nuisance or condition exceeds \$500, the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.

(Code of Iowa, Sec. 364.13, 380.60 & 380.65)

3. The City may collect all associated abatement expenses in a Court of Small Claims.
4. The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.
5. The City may utilize the Iowa Department of Administrative Services (DAS) to collect funds for abatement.

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9.08 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 the city code and shall be guilty of a civil infraction subject to a fine of \$100 plus court costs in addition to the cost to abate the nuisance.

(Ordinance 600, approved August 17, 2016 amended Section 9.02)

9.09 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Code of Iowa Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

9.10 ABATEMENT REMEDIES AND PENALTIES. In the event that the violation is not abated as ordered and within the time specified, the City may abate such violation by undertaking such abatement and assessing the costs thereof against the property.

1. Abatement may include but is not limited to repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, barricading or fencing, demolition of dangerous or abandoned structures or portions thereof, and elimination of nuisances. Abatement costs may include the cost of removing or eliminating the violation; the cost of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and other related administrative costs. Inoperable or obsolete vehicles which have been impounded may be sold in accordance with state law. If an inoperable or obsolete vehicle removed from private premises is not sold or if the proceeds of such sale or redemption are not sufficient to pay the costs of abatement, storage and sale of said inoperable or obsolete vehicle, such cost or the balance of such cost may be assessed against the premises in the same manner as a property tax.
2. If a prior public hearing before the City Council has not been held on the nuisance to be abated and before the assessment of any charges for work done or caused to be done by the City, the owner of the property proposed to be assessed shall be provided notice and opportunity for hearing before the City Council. The notice shall set forth the amount proposed to be assessed, and include a statement of the time, place, and date of hearing.

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CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 10 - GENERAL PROVISIONS

10.01 DEFINITIONS. For use in this Article, the following terms are defined:

1. "ANIMAL" shall mean all living creatures not human.
2. "AT LARGE" shall mean any animal found off the premises of the animal's owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "CAT" shall mean both male and female animals of the feline species whether altered or not.
4. "DANGEROUS ANIMAL" shall mean:
 - a. "Dangerous Animal" shall mean any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and 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. The following animals are deemed to be dangerous animals per se:
 1. All poisonous animals including rear-fang snakes.
 2. Alligators and crocodiles.
 3. Apes (chimpanzees, gibbons, gorillas, orangutans and siamangs "Y".
 4. Baboon.
 5. Badgers, wolverines, weasels, skunks, mink, ferrets, martens, otters and other mustelids.
 6. Bats.
 7. Bears.
 8. Bison.
 9. Bobcats.
 10. Cheetahs.
 11. Constrictor snakes.
 12. Coyotes.
 13. Deer.
 14. Emu.
 15. Foxes.
 16. Gamecocks and other fighting birds.
 17. Gila monsters.
 18. Hippopotamus
 19. Hyenas.
 20. Jaguars.

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21. Leopards.
 22. Lions.
 23. Lynxes.
 24. Monkeys.
 25. Ostriches.
 26. Piranha fish.
 27. Pot-bellied pigs.
 28. Pumas, also known as cougars, mountain lions and panthers.
 29. Raccoons
 30. Rhinoceroses.
 31. Scorpions.
 32. Sharks.
 33. Snow Leopards.
 34. Tigers.
 35. Wolves.
 36. Any cross breed of such animals which have similar characteristics of the animals specified above.
 37. Any animals declared to be dangerous by the City Council.
5. "DOG" shall mean both male and female animals of the canine species whether altered or not.
6. DOMESTIC ANIMALS. A domestic animal is an animal that is typically accessory to occupancy in a principal dwelling such as a dog, cat, or rabbit, is tame or domesticated and is not considered dangerous by an ordinance of the city of Hospers. Domestic animals of a smaller nature include gerbils, hamsters, guinea pigs, mice, birds, non-venomous or non-constrictor snakes, and other similar animals maintained as pets and not for breeding purposes, inside a dwelling.
7. "Livestock" Means An Animal Belonging To The Bovine, Caprine, Equine, Ovine Or Porcine Species, Ostriches, Rheas And Emus; Farm Deer As Defined In Section 170.1 Of The Code Of Iowa; Or Poultry.
(Code of Iowa, Sec. 717.1)
8. Common names for "Livestock" are, but are not limited to: cows or cattle, sheep, swine, pigs, chickens, turkeys, horses, ducks, geese, or emus.
9. "OWNER" shall mean any person owning, keeping, sheltering, or harboring an animal.
(Code of Iowa, Sec. 351.2)
10. "VICIOUS ANIMAL" shall mean any animal, except a dangerous animal per se as listed above, that has attacked or bitten or has attempted to bite or claw a person or persons while running at large and the attack was unprovoked; any animal which shall have attacked or bitten any person without provocation; any

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animal that has chased, killed or maimed any domestic animal or fowl, or if such animal has been deemed vicious by the court, County Board of Health, City Council, or other governing body; or when the propensity to attack or bite persons or to chase, kill, or maim domestic animals or fowl shall exist and is known or ought reasonably to be known to the owner. Refer to Chapter 3, Article 10 - Vicious Dogs in this municipal code for a definition and regulation of vicious dogs.

- 10.02 CRUELTY TO ANIMALS. It shall be unlawful for a person to torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly beat, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same, or carry the same, or cause the same to be cruelly carried on any vehicle or otherwise, or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the acts or omissions herein contemplated be committed either intentionally or negligently.

(Code of Iowa, Sec. 717.2 & 717.3)

- 10.03 ANIMAL CONTESTS. It shall be unlawful for a person to keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, farm deer, ostriches, rheas, emus or other creature, or to engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures.

(Code of Iowa, Sec. 717.3)

- 10.04 ANIMALS RUNNING AT LARGE. It is unlawful for the owner or bailee of a dog, cat, or other similar animals or fowl to allow or permit such animals to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; by running after or chasing persons, bicycles, automobiles or other vehicles; by roaming free off of owner's property; or by disposing of animal's fecal within the property of another homeowner and not cleaning up after same. All animals are required to be leashed at all times. An animal can be loose on the owner's property if within a fenced enclosure. It is a violation of this ordinance for a homeowner to permit their animal leave their property and allow it to urinate and defecate and wander the neighborhood. Violation of this section shall be punishable by a fine of:

1st offense: \$50.00

2nd offense: \$75.00

3rd and subsequent offense: \$100

(Ordinance 599, approved by Council November 3, 2014)

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10.05 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the City such bothersome animals as barking dogs, bees, cattle, horses, swine, sheep, turkeys, chickens or other animals which tend to disrupt the peace and good order of the community.

10.06 KEEPING OF DANGEROUS OR VICIOUS ANIMALS PROHIBITED. It shall be unlawful for any person to keep, shelter, or harbor any dangerous or vicious animal as a pet, or act as custodian, temporary or otherwise, for such animal, or keep such animal for any other purpose or in any other capacity within the City of Hospers, Iowa, except as, provided in Sections 10.06(1) of this Article. Refer to Chapter 3, Article 10 - Vicious Dogs in this municipal code for a definition, regulation and exceptions on vicious dogs.

1. DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 10.06 of this Article shall not apply to the keeping of dangerous animals in the following circumstances:

- a. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, which is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required federal or state licenses, or to retail establishments, zoological gardens, circuses and zoos, if.
 - i. The animals' location conforms to the provisions of the Zoning Ordinance of the City.
 - ii. All animals and animal quarters are kept in a clean and sanitary condition and so maintained so to eliminate objectionable odors.
 - iii. Animals are maintained in quarters so constructed as to prevent their escape.
 - iv. No person lives or resides within one hundred feet (100') of the quarters in which the animals are kept.
- b. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

2. VIOLATIONS. Any violation of this Section 10.06 shall constitute a municipal infraction punishable by the penalties set forth in Title III, Article 15, of this Code of Ordinances.

- a. In addition, any animal found to be in violation of this Section shall be immediately impounded and the owner shall either be served a summons to appear before a proper court to answer to charges made or be given seven (7) days to comply with the terms of this Section.
- b. Upon proof of compliance, the impounded animal may be claimed by the owner after payment of impoundment fees and penalties.

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- c. Any animal not claimed within seven (7) days after notice shall be disposed of in a humane manner in accordance with the law.

3. SEIZURE, IMPOUNDMENT AND DISPOSITION.

- a. 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, at the discretion of a peace officer, 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.
- b. 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 peace officer or his/her designee 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 or his/her designee shall order the person named in the complaint to safely remove such animal from the City 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 the dangerous or vicious animal.
- c. The notice to remove an animal from the City or have it destroyed 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 when such animal has caused serious physical harm or death to any person, in which case the Mayor or his/her designee 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.
- d. The order to remove a dangerous animal or vicious animal issued by the Mayor or his/her designee 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 the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal.
- e. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The person filing the notice of appeal must be present at the hearing. Failure to attend such appeal hearing shall constitute a waiver of the right to appeal. The hearing may be continued for good cause. At the conclusion of such hearing, the

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Council may affirm or reverse the order of the Mayor or his/her designee. 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.

- f. If the Council affirms the action of the Mayor or his/her designee, 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 or destroy it. The decision and order shall immediately be served upon the person who filed the appeal. Such notice shall be given in writing and shall be served personally or by certified mail.
- g. If the original order of the Mayor or his/her designee 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 or his/her designee is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or his/her designee issued pursuant to this chapter and not appealed, or an order of the Council after appeal, constitutes a simple misdemeanor.

10.07 CONFINEMENT OF ANIMALS SUSPECTED OF RABIES. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it shall order the owner or bailee to confine such animal in the manner it directs. If the owner or bailee fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

10.08 POISONED MEAT. No person shall knowingly expose any poisoned meat or other poisoned substances on public or private property where the same may be taken by any human being or domestic animal.

10.09 DEAD ANIMALS. The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.

10.10 OWNER OR PERSON IN CHARGE OF ANIMAL TO CLEAN UP DROPPINGS. It shall be unlawful for any owner or person in charge of a dog, cat, horse or other animal to fail to clean up and/or remove as soon as possible any excrement or droppings deposited by said dog, cat, horse or other animal on any real estate whether privately or publicly owned.”

10.11 ANIMALS IN MOTOR VEHICLES; RESCUE. No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal.

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The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section.

- (1) peace officer
- (2) fire department personnel

The person rescuing the animal shall notify the Mayor or City Clerk and animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

- 10.12 NUMBER OF DOMESTIC ANIMALS. The numerical number of dogs and cats kept on any one residential premise or property shall be limited to any combination of no more than five (5) full grown dogs and cats. An exception to the limitation of dogs and cats applies to the following bona fide businesses: pet stores, animal grooming shops, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals. A dog or cat is considered full-grown at the age of twelve (12) weeks of age.
- 10.13 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)
- 10.14 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)
- 10.15 IMPOUNDING. Any licensed, unlicensed, or unvaccinated dog, cat, or other animal found at large shall be seized and impounded, or the owner or bailee may be served a summons to appear before a proper court to answer charges made thereunder. Any person found violating the provisions of this section shall be liable for any fines, cost of securing and impounding any such animal including cost of feed and keep, the actual cost of transporting and boarding, the costs of keeping the animal's vaccinations current, and any other penalties prescribed in this code. Upon payment of the before-mentioned, the owner may claim any impounded animal.
- 10.16 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days

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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)

- 10.17 OWNER'S DUTY. It is the duty of the owner or bailee 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)

- 10.18 ACTIONS OF DOGS OR CATS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog or cat to allow or permit such dog or cat to perform the following:

1. **OTHER PREMISES.** To pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. **CAUSE ANNOYANCE.** To cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, meowing or otherwise; or by running after or chasing persons, bicycles, automobiles or other vehicles.
3. **CAUSE DAMAGE.** To cause any damage or defilement to the public or private property.
4. **MOLEST PERSONS.** To molest or harm any person on public or private property.
5. **MOLEST ANIMALS.** To molest, attack, or kill wildlife, birds, or domestic animals on public or private property.
6. **ACCUMULATION OF ANIMAL WASTE.** The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners. Any pen, yard, pasture or place in which animals are kept or confined must be kept sanitary by not allowing any filth, manure, excrement or other offensive matter to accumulate in such quantities as to create an offensive or unsanitary condition to exist. Wastes on owner, keeper, or harbor's property shall be cleaned up and properly disposed of at least once every seventy-two (72) hours.
7. To run at large, whether the cat or dog is licensed or unlicensed.
8. Damages, soils, defiles or defecates on public or private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.

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9. Causes unsanitary, dangerous or offensive conditions.

10.19 LICENSE. A city council may provide for the issuance of licenses for dogs. If the council should require licenses for dogs, then such licenses shall be obtained from the city clerk. The council may set a license fee to be paid to the city clerk. Any license issued by the city clerk shall be in the form of a license tag bearing a license number and the year issued, and shall be fastened to a collar or harness which shall be worn by the dog for which the license was issued.

10.20 IMMUNIZATION. All dogs or cats six (6) months or older shall be vaccinated against rabies. It shall be a violation of this ordinance for any dog or cat to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog or cat when not confined.

(Code of Iowa, Sec. 351.33)

10.21 KENNEL DOGS. Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this article if the kennel is licensed under chapter 162, Code of Iowa. Licensed kennels and location of such kennels are subject to the City's zoning ordinance.

10.22 COMMERCIAL USE PROHIBITED. No persons shall keep animals covered by this section for commercial purposes, except on premises where such commercial use is permitted under the City's zoning ordinances or exclusively within the owner's residence. The following facts shall be considered evidence of commercial activity:

1. The advertising of animals for sale.
2. The continuing periodic sale of animals.
3. Keeping animals in excess of the numerical limits established under Section 10.12 in this Article.
4. Licensing, registration or certification of the keeper of such animals as a "dealer."
5. The holding of an Iowa sales tax permit related to the sale of animals.
6. Reporting activities in connection with such animals as a business on any legally required document, report, or tax return.
7. Any other factors that indicate commercial activity.
8. This Section does not apply to veterinary offices or persons wishing to re-home any presently owned animals.

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- 10.23 DOGS & CATS HABITUALLY AT LARGE. It shall be unlawful for any person to keep within the City any dog or cat for which the owner has been fined three times within a twelve (12) month period under this Chapter.
- 10.24 SUMMONS ISSUED. The owner of any dog or other animal shall be issued a municipal infraction and a summons to appear before a proper court to answer charges of permitting such dog or animal to be at large in violation of this chapter.
- 10.25 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)
- 10.26 LIVESTOCK PROHIBITED. 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.
- 10.27 KILL DOGS. It shall be lawful for any person to kill a dog when such dog is caught in the act of chasing, maiming or killing any domestic animal or when such dog is attacking or attempting to bite a person.
- 10.28 PENALTY. Unless another penalty is expressly provided in a section of this Article, any person convicted of a simple misdemeanor shall be subject to the Standard Penalty referenced in Title 1, Article 1 of this Code of Ordinances. The City may also seek a civil penalty. Seeking a civil penalty does not preclude the City from seeking alternative relief from the court in the same action. Such relief may include, but it not limited to, an order for abatement or injunctive relief. Any violation of this article, unless another unless expressly provided, shall be punishable by a fine of:

1st Offense: \$100.00

2nd Offense: \$200.00

3rd and subsequent offense: \$300.00

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CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 11 - GENERAL PROVISIONS

Article Reserved for Future Use.

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CHAPTER 4: GRASS AND WEEDS

ARTICLE 12 – GENERAL PROVISIONS

- 12.01 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 Hospers, Iowa, in order to provide for the safety and preserve the health and welfare of the citizens located therein. The proceedings and remedies set out in this Chapter are in addition to any other procedures or remedies set out elsewhere in the City of Hospers Code of Ordinances.
- 12.02 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 Graminea, having jointed stems, sheathing leaves, and seedlike grains.
 4. "Ground cover" means plant 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 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.

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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 inches (12") or more, except as otherwise provided in this chapter.
- 12.03 AUTHORITY FOR ENFORCEMENT. City of Hospers 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.
- 12.04 INTERFERENCE WITH ENFORCEMENT. No persons shall interfere with the staff member while engaged in the enforcement of this chapter.
- 12.05 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 Hospers, 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 Hospers, 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 eight inches (8") in height.
 - C. However, grass and weeds located on undeveloped and platted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than eighteen inches (18") in height.
 - D. Farm crops, pasture, vineyards, orchards, garden plants, and ornamental plants in established planting beds may exceed the requirements of this Ordinance. However, weeds and brush in such areas shall be cut so that such weeds or brush are less than eighteen inches (18") in height.
 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 inches (18") 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 (18") in height.

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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.

12.06 NATURAL AREAS.

1. Designation. The owner or person in possession or control of any property within the city limits of the City of Hospers, Iowa, may apply to have such land or portion thereof designated as a natural or conservation area. Prior to designating such areas, the Hospers 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 Hospers 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.

12.07 EXEMPT PROPERTY.

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

- 12.08 PENALTY. Notwithstanding the provisions of Title III, Chapter 2, Articles 8 & 9 of the Hospers City Code relating to nuisances and the procedure of abatement thereof, the City and any of its agents or employees, shall have the right and authority to enter upon any property found to be in violation of this article and mow said property to bring it into compliance with the requirements of this article. Such action can be taken upon the expiration of 3 (three) days after service of the notice as set forth in section 12.09 of this article. 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.

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12.09 METHOD OF SERVICE AND BILLING.

1. Annual publication of this ordinance will serve as notice to property owners.
2. If City of Hospers finds a property is in violation of this chapter, a letter and copy of this chapter will be sent by regular mail or personally delivered to the property owner. Upon receipt of this letter, the property owner shall immediately bring the property into compliance with all regulations of this chapter and continue to keep the property in compliance thereafter. "Receipt" of this letter shall have occurred either upon depositing said letter in the United States Mail or handing same to the property owner.
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. If the amount owed has not been paid within 30 days of the billing date, the City Clerk shall certify the costs to the County Auditor and/or County Treasurer and said amount owed shall then be collected with and in the same manner as general property taxes.

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CHAPTER 4: NUISANCES

ARTICLE 13 – GENERAL PROVISIONS

Article 13 is reserved for future use.

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CHAPTER 5: MUNICIPAL INFRACTIONS

ARTICLE 14 - MUNICIPAL INFRACTIONS

14.01 DEFINITIONS.

1. Municipal Infraction: Any violation of the City Code of Hospers, Iowa, is a municipal infraction, EXCEPT any violation which is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law, or any violation which is a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa.
2. Officer: Any employee or person authorized to enforce the ordinances and the City Code of the City of Hospers, Iowa.
3. Repeat Offense: Any recurring violation of the same section of the ordinances or the City Code of Hospers, Iowa.
(Code of Iowa Sec. 364.22)

14.02 PENALTIES.

1. CIVIL PENALTIES. A municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:

Schedule of Civil Penalties

First Offense - Not less than \$300.00 and not to exceed \$750.00

Each Repeat Offense - Not less than \$500.00 and not to exceed \$1,000.00

However, 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 may be punishable by a civil penalty of not more than \$1,000.00 for each day a violation exists or continues.

2. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
3. A municipal violation 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:
 - a. The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a

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shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

- b. The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - c. The violation does not continue in existence for more than eight (8) hours.
4. Seeking a civil penalty as authorized in the above provisions 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)

14.03 CIVIL CITATIONS.

- 1. Any officer authorized by the City to enforce the City Code or ordinances may issue a civil citation to a person who commits a municipal infraction.
- 2. The citation may be served by personal service as provided in Iowa Rule of Civil Procedure 1.305, or by certified mail to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner provided in Iowa Rule of Civil Procedure 1.310 and subject to the conditions of Iowa Rule of Civil Procedure 1.311.
- 3. A copy of the citation shall be retained by the issuing officer, and one original copy shall be provided to the Clerk of the district court.
- 4. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternative relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.

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- h. The legal description of the affected property, if applicable.

(Code of Iowa, Sec. 364.22)

- 14.04 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 connection with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provision of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or 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 the industrial production or manufacturing of grain products of if such discharge occurs from September 15 to January 15.

- 14.05 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 the criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means.

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

- 14.06 PROHIBITION AGAINST FURTHER VIOLATIONS. A person who commits an infraction of a City ordinance subject to the provisions of this chapter may be ordered by the Court to cease further violations of the same provisions of the ordinance. Failure of the person to adhere to this order will result in contempt proceedings being initiated by the City.

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TITLE IV - TRAFFIC AND STREETS

TITLE IV

CHAPTER 1: TRAFFIC CODE

ARTICLE 1 - GENERAL PROVISIONS

1.01 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

1. "PARK" OR "PARKING" shall mean 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.
2. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
3. "STOP" shall mean when required, the complete cessation of movement.
4. "STOP" OR "STOPPING" shall mean, 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.
5. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets:
 - A. Main Street from First Avenue to Fourth Avenue.
 - B. Second Avenue from Cedar Street to Pine Street.
6. "RESIDENCE DISTRICT" shall mean the territory not included in a business or school district.
7. "PEACE OFFICER" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in section 801.4 Code of Iowa.

(Code of Iowa, Sec. 321.1 (50))
8. "TRAFFIC CONTROL DEVICE" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(Code of Iowa Sec. 321.1 (46))
9. "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.

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(Code of Iowa Sec. 321.1 (90))

10. "PRIVATE PROPERTY" shall mean all property other than a "public way" as that term is defined.
- 1.02 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the Sioux County Sheriff's Department or a peace officer.
- 1.03 TRAFFIC ACCIDENTS. The following shall apply to traffic accidents:
 1. REPORT. The driver of a vehicle involved in an accident within the limits of this 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 the peace officers and shall be subject to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.271 & 321.273)
 2. INVESTIGATION. The Sioux County Sheriff's Department or other peace officer shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.
 3. STUDIES. Whenever the accidents at any particular location become numerous, the Sioux County Sheriff's Department or City's contracted law enforcement shall conduct studies of such accidents and propose remedial measures.
- 1.04 FILES MAINTAINED. The Sioux County Sheriff's shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three-year period. Such reports shall be filed alphabetically under the name of the driver concerned.
- 1.05 ANNUAL SAFETY REPORTS. The Sioux County Sheriff's Department shall prepare annually a traffic report which shall be filed with the mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.
- 1.06 HABITUAL TRAFFIC VIOLATORS. The peace officer shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefore, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law.
(Code of Iowa, Sec. 321.201 & 321.215)

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- 1.07 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the fire department when at the scene of a fire, or emergency, or assisting law enforcement at the location of a traffic accident or when assisting peace officers, 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.
- 1.08 PEACE OFFICER'S AUTHORITY. Any 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 the vehicle.
(Code of Iowa, Sec. 321.492)
- 1.09 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control or regulate traffic.

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CHAPTER 1: TRAFFIC CODE

ARTICLE 2 - REGULATIONS AND VIOLATIONS

2.01 VIOLATION OF STATE REGULATIONS. Any person who shall willfully fail or refuse to comply with any lawful order of a peace officer or direction of a fire department officer during a fire, or who shall fail to abide by the provisions of this chapter and 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 chapter. These sections of the Code of Iowa are adopted reference:

1. Section 321.17 - Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 - Registration card, carried and exhibited; exception.
4. Section 321.37 - Display of plates.
5. Section 321.38 - Plates, method of attaching, imitations prohibited.
6. Section 321.57 - Operation under special plates.
7. Section 321.67 - Certificate of title must be executed.
8. Section 321.78 - Injuring or tampering with vehicle.
9. Section 321.79 - Intent to injure.
10. Section 321.91 - Penalty for abandonment.,
11. Section 321.98 - Operation without registration.
12. Section 321.99 - Fraudulent use of registration.
13. Section 321.104 - Penal offenses again title law.
14. Section 321.115 - Antique vehicles; model year plates permitted.
15. Section 321.174 - Operators licensed.
16. Section 321.174A - Operation of motor vehicles with expired license.
17. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
18. Section 321.180 - Instruction permits.
19. Section 321.180B - Graduated driver's licenses for persons aged fourteen through seventeen.
20. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
21. Section 321.193 - Restricted licenses.
22. Section 321.194 - Special minor's licenses.
23. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor' License.
24. Section 321.208A - Operation in violation of out-of-service order.
25. Section 321.216 - Unlawful use of license and nonoperator's identification card.

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26. Section 321.216B - Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
27. Section 321.216C - Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
28. Section 321.218 - Operating without valid driver's license or when disqualified.
29. Section 321.219 - Permitting unauthorized minor to drive.
30. Section 321.220 - Permitting unauthorized person to drive.
31. Section 321.221 - Employing unlicensed chauffeur.
32. Section 321.222 - Renting motor vehicle to another.
33. Section 321.223 - License inspected.
34. Section 321.224 - Record kept.
35. Section 321.232 - Radar jamming devices; penalty.
36. Section 321.234A - All-terrain vehicles. (Also Title IV, Article 22))
37. Section 321.235A - Electric personal assistive mobility devices.
38. Section 321.247 - Golf cart operation on City streets. (Title IV, Article 22)
39. Section 321.256 Obedience to official traffic-control devices
40. Section 321.257 - Official traffic control signal.
41. Section 321.259 - Unauthorized signs, signals or markings.
42. Section 321.260 - Interference with devices, signs or signals; unlawful possession.
43. Section 321.262 - Damage to vehicle.
44. Section 321.263 - Information and aid.
45. Section 321.264 - Striking unattended vehicle,
46. Section 321.265 - Striking fixtures upon a highway.
47. Section 321.266 - Reporting accidents.
48. Section 321.275 - Operation of motorcycles and motorized bicycles.
49. Section 321.276 - Use of electronic communication device while driving; text-messaging.
50. Section 321.277 - Reckless driving.
51. Section 321.277A - Careless driving.
52. Section 321.278 - Drag racing prohibited.
53. Section 321.281 - Actions against bicyclists.
54. Section 321.284 - Open container; drivers.
55. Section 321.284A - Open container; passengers.
56. Section 321.288 - Control of vehicle; reduced speed.
57. Section 321.295 - Limitation on bridge or elevated structures.
58. Section 321.297 - Driving on right-hand side of roadways; exceptions.
59. Section 321.298 - Meeting and turning to right.
60. Section 321.299 - Overtaking a vehicle.
61. Section 321.302 - Overtaking and passing.
62. Section 321.303 - Limitations on overtaking on the left. (Unsafe Passing)

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63. Section 321.304 - Prohibited passing.
64. Section 321.306 - Roadways laned for traffic.
65. Section 321.307 - Following too closely.
66. Section 321.308 - Motor trucks and towed vehicles; distance requirements.
67. Section 321.309 - Towing; convoys; drawbars.
68. Section 321.310 - Towing four-wheel trailers.
69. Section 321.311 – Turning at intersections.
70. Section 321.312 - Turning on curve or crest of grade.
71. Section 321.313 - Starting parked vehicle.
72. Section 321.314 - When signal required.
73. Section 321.315 - Signal continuous.
74. Section 321.316 - Stopping.
75. Section 321.317 - Signals by hand and arm or signal device.
76. Section 321.318 - Method of giving hand and arm signals.
77. Section 321.319 - Entering intersections from different highways.
78. Section 321.320 - Left turns; yielding.
79. Section 321.321 - Entering through highways.
80. Section 321.322 - Vehicles entering stop or yield intersection.
81. Section 321.323 - Moving vehicle backward on highway.
82. Section 321.323A - Approaching certain stationary vehicles.
83. Section 321.324 - Operation on approach of emergency vehicles.
84. Section 321.324A - Funeral processions.
85. Section 321.325 – Pedestrians subject to signals.
86. Section 321.327 – Yield to pedestrians in crosswalks.
87. Section 321.328 – Pedestrian failing to use crosswalk.
88. Section 321.329 - Duty of driver; pedestrians crossing or working on highways.
89. Section 321.330 - Use of crosswalks.
90. Section 321.331 – Pedestrians soliciting rides.
91. Section 321.332 - White canes restricted to blind persons.
92. Section 321.333 - Duty of drivers approaching blind persons.
93. Section 321.340 - Driving through safety zone.
94. Section 321.341 - Obedience to signal of train.
95. Section 321.342 - Stop at certain railroad crossings; posting warning.
96. Section 321.343 - Certain vehicles must stop.
97. Section 321.344 - Heavy equipment at crossing.
98. Section 321.344B - Immediate safety threat; penalty.
99. Section 321.354 - Stopping on traveled way.
100. Section 321.359 - Moving other vehicle.
101. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).

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- 102. Section 321.362 - Unattended motor vehicle.
- 103. Section 321.363 - Obstruction to driver's view.
- 104. Section 321.364 - Vehicles shipping food; preventing contamination by hazardous material.
- 105. Section 321.365 - Coasting Prohibited.
- 106. Section 321.366 – Acts prohibited on fully controlled-access facilities.
- 107. Section 321.367 – Following fire apparatus.
- 108. Section 321.368 – Crossing fire hose.
- 109. Section 321.369 – Putting debris on highway.
- 110. Section 321.370 – Removing injurious material.
- 111. Section 321.371 – Clearing up wrecks.
- 112. Section 321.372 – School buses.
- 113. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 114. Section 321.381A – Operation of low-speed vehicles.
- 115. Section 321.382 – Upgrade pulls; minimum speed.
- 116. Section 321.383 – Exceptions; slow vehicles identified.
- 117. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
- 118. Section 321.385 – Head lamps on motor vehicles.
- 119. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 120. Section 321.387 – Rear lamps.
- 121. Section 321.388 – Illuminating plates. Improper registration plate lamp.
- 122. Section 321.389 – Reflector requirement. (Improper rear reflector)
- 123. Section 321.390 – Reflector requirements.
- 124. Section 321.392 – Clearance and identification lights.
- 125. Section 321.393 – Color and mounting.
- 126. Section 321.394 – Lamp or flag on projecting load.
- 127. Section 321.395 – Lamps on parked vehicles.
- 128. Section 321.398 – Lamps on other vehicles and equipment.
- 129. Section 321.402 – Spot lamps.
- 130. Section 321.403 – Auxiliary driving lamps.
- 131. Section 321.404 – Signal lamps and signal devices.
- 132. Section 321.404A – Light-restricting devices prohibited.
- 133. Section 321.405 – Self-illumination.
- 134. Section 321.408 – Back-up lamps.
- 135. Section 321.409 – Mandatory lighting equipment.
- 136. Section 321.415 – Required usage of lighting devices.
- 137. Section 321.417 – Single-beam road-lighting equipment.
- 138. Section 321.418 – Alternate road-lighting equipment.
- 139. Section 321.419 – Number of driving lamps required or permitted.
- 140. Section 321.420 – Number of lamps lighted.
- 141. Section 321.421 – Special restrictions on lamps.

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- 142. Section 321.422 – Red light in front.
- 143. Section 321.423 – Flashing lights.
- 144. Section 321.430 – Brake, hitch and control requirements.
- 145. Section 321.431 – Performance ability.
- 146. Section 321.432 – Horns and warning devices.
- 147. Section 321.433 – Sirens, whistles and bells prohibited.
- 148. Section 321.434 – Bicycle sirens or whistles.
- 149. Section 321.436 – Mufflers, prevention of noise.
- 150. Section 321.437 – Mirrors.
- 151. Section 321.438 – Windshields and windows.
- 152. Section 321.439 – Windshield wipers.
- 153. Section 321.440 – Restrictions as to tire equipment.
- 154. Section 321.441 – Metal tires prohibited.
- 155. Section 321.442 – Projections on wheels.
- 156. Section 321.444 – Safety glass.
- 157. Section 321.445 – Safety belts and safety harnesses; use required.
- 158. Section 321.446 – Child restraint devices.
- 159. Section 321.449 – Motor carrier safety regulations.
- 160. Section 321.450 – Hazardous materials transportation.
- 161. Section 321.454 – Width of vehicles.
- 162. Section 321.455 – Projecting loads on passenger vehicles.
- 163. Section 321.456 – Height of vehicles; permits.
- 164. Section 321.457 – Maximum length.
- 165. Section 321.458 – Loading beyond front.
- 166. Section 321.460 – Spilling loads on highways.
- 167. Section 321.461 – Trailers and towed vehicles.
- 168. Section 321.462 – Drawbars and safety chains.
- 169. Section 321.463 – Maximum gross weight.
- 170. Section 321.465 – Weighing vehicles and removal of excess.
- 171. Section 321.466 – Increased loading capacity; re-registration.
- 172. Section 321.467 – Retractable Axels.
- 173. Section 321.471 – Local Authorities May Restrict.
- 174. Section 321.473 – Limiting Trucks – Rubbish Vehicles.

2.02 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of the city unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or him/herself to any vehicle upon a roadway.

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

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- 2.04 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor punishable as provided in the Code of Iowa.
(Code of Iowa, Sec. 321.482)
- 2.05 MILLING. It shall be unlawful to drive or operate a motor 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.
- 2.06 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.
- 2.07 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cutout, bypass or similar device.
(Code of Iowa, Sec. 321.436)
- 2.09 ENGINE BRAKES AND COMPRESSION BRAKES. It is unlawful for any driver of any vehicle to use or operate within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of a truck or any other vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

(Editor's Note: Ordinance 579 amended code by adding Engine & Compression Brakes)
- 2.08 PLAY STREETS. The council may declare any street or part thereof a play street and to place 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)
- 2.09 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.

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2.10 FUNERAL OR OTHER PROCESSIONS. The following shall apply to funeral and other processions:

(Code of Iowa, Sec. 321.236(3))

1. IDENTIFIED. A funeral or other procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police chief.
2. MANNER OF DRIVING. Each driver in a funeral or other procession shall drive as near to the right hand of the roadway as practical and safe.
3. INTERRUPTING PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by traffic control signals or peace officers.

2.11 SCHOOL BUSES. The following shall apply to school buses:

1. SIGNALS. The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than one hundred (100) feet, nor more than three hundred (300) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.
(Code of Iowa, Sec. 321.372(1))
2. LIGHTS ON. The driver of a school bus shall, while carrying passengers, have its headlights turned on.
(Code of Iowa, Sec. 321.372(1))
3. DISCHARGING PUPILS. All pupils shall be received and discharged from the right front entrance of every school bus, and if the pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.
(Code of Iowa, Sec. 321.372(2))
4. PASSING PROHIBITED. The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped

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until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.

(Code of Iowa, Sec. 321.372(3))

5. STOP WHEN MEETING. The driver of any vehicle when meeting a school bus on which the amber warning signal lights are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution.

(Code of Iowa, Sec. 321.372(3))

6. MULTI-LANE ROADS. The driver of a vehicle upon a highway or street providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction even though said school bus has stopped.

(Code of Iowa, Sec. 321.372(4))

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CHAPTER 1: TRAFFIC CODE

ARTICLE 3 - SPEED REGULATIONS

- 3.01 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 him or her 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)

- 3.02 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

- 3.03 BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, Sec. 321.285(1))

- 3.04 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, Sec. 321.285(2))

- 3.05 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 article, is unlawful.

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

- 3.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Sections 3.02 and 3.03 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 any of the following designated streets or parts thereof:

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None Listed

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

All city streets unless posted otherwise.

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

None Listed

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

1. Hosper's within City Limits.

5. 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.

6. 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

3.07 AUTHORIZED EMERGENCY VEHICLES.

1. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section.
2. The driver of any authorized emergency vehicle, may:
 - a. Park or stand an authorized emergency vehicle, irrespective of the provisions of this chapter.
 - b. Disregard laws or regulations governing direction of movement for the minimum distance necessary before an alternative route that conforms to the traffic laws and regulations is available.
3. The driver of a fire department vehicle, police vehicle, or ambulance, or a peace officer riding a police bicycle in the line of duty may do any of the following:
 - a. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

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- b. Exceed the maximum speed limits so long as the driver does not endanger life or property.
- 4. The exemptions granted to an authorized emergency vehicle under subsection 2 and for a fire department vehicle, police vehicle or ambulance as provided in subsection 3 shall apply only when such vehicle is making use of an audible signaling device meeting the requirements of Iowa Code 321.433 or a visual signaling device, except that use of an audible or visual signaling device shall not be required when exercising the exemption granted under subsection 3, paragraph "b" of this section when the vehicle is operated by a peace officer, pursuing a suspected violator of the speed restrictions imposed by or pursuant to this chapter, for the purpose of determining the speed of travel of such suspected violator.
- 5. The foregoing provisions shall not relieve the driver of an authorized emergency vehicle or the rider of a police bicycle from the duty to drive or ride with due regard for the safety of all persons, nor shall such provisions protect the driver or rider from the consequences of the driver's or rider's reckless disregard for the safety of others.

(Code of Iowa, Sec. 321.231)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 4 - TURNING REGULATIONS

- 4.01 AUTHORITY TO MARK. The police chief may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law 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.
(Code of Iowa, Sec. 321.311 & 321.2 55)
- 4.02 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.
- 4.03 SIGNAL REQUIREMENTS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning when the speed limit is forty-five (45) miles per hour or less. The required signals may be given either by means of the hand and arm as provided in the Code of Iowa or by a mechanical or electrical directional signal device or light of a type approved by the department and conforming to the provisions of the Code of Iowa.
(Code of Iowa, Sec. 321.315)
- 4.04 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection; provided however, that "U" turns are prohibited at intersections within the business district, at intersections where there are automatic traffic signals and on the following streets:
(Code of Iowa, Sec. 321.255 & 321.236(9))

Only as posted

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CHAPTER 1: TRAFFIC CODE

ARTICLE 5 - PARKING REGULATIONS

5.01 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 or within ten (10) feet of a crosswalk at an intersection.
(Code of Iowa, Sec. 321.236(1) & 321.358(5))
2. CENTER PARKING. 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 an intersection of any street.
(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. 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))
10. 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))

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11. **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))
12. **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 police chief may cause curbings to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358(13))
13. **CHURCHES, NURSING HOMES, AND OTHER BUILDINGS.** A space of fifty (50) feet is reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, 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)
14. **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 321.236(1))
15. **STATE HIGHWAY INTERSECTING STREETS.** On the minor street approach for a distance of thirty-five (35) feet in advance of the stop sign or on the exit side of the minor street for a distance of thirty-five (35) feet of any State Highway.
16. **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))
17. **NO PARKING ZONE.** No person, except physicians or other persons on emergency calls shall park a vehicle on any portion of the right of way between the following described lines:
 - a. On the west side of Hosper's Drive, a line commencing at B-40 and continuing north to Main Street, all within the corporate limits of the City of Hospers, Iowa, Sioux County.

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- b. On the west side of Hospers Drive, a line commencing at B-40 and continuing North through the city limits and ending at the Willow Creek Bridge.
- 18. **IN MORE THAN ONE SPACE.** In any designated parking place so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such spaces.
- 19. **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))
- 20. **AREA BETWEEN LOT LINE AND CURB LINE.** The area of public way not covered by sidewalk and lying between the lot line and the curb line and if commonly referred as the parking or terrace. This includes any vehicle with wheels, including commercial and other vehicles such as, but not limited to motor vehicle, campers trailers, motor coach homes (RV's), trailers, UTV's, ATV's, golf carts and included non-wheeled vehicles such as a snowmobile. This section also includes a vehicle attached to the chassis of another vehicle such as, but not limited to a boat or watercraft. Exceptions to this section are for the purposes of delivering and picking items and for construction purposes when said vehicles are actually being utilized then and there for said construction or delivery/picking up purposes or trucks or cars parked perpendicular to the roadway in the portion of driveway in the public way, but not over a sidewalk, or during a snow event and up to twenty-four (24) hours after the snow event if parking is not available on a driveway or in a garage on the adjacent owner's property.
- 5.02 **PARKING 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)
- 5.03 **PARK ADJACENT TO CURB: ONE-WAY STREETS.** 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)
- 5.04 **ANGLE PARKING.** 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 an angle

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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)

5.05 ANGLE PARKING LOCATIONS. Angle or diagonal parking shall be permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. Main Street, from Second Avenue to Third Avenue.
2. Main Street, on the north side, from Fifth Avenue to Sixth Avenue.
3. Second Avenue, on the east side, from Main Street to a point two hundred feet south of Main Street.
4. Second Avenue, on the east side from Main Street to the American State Bank Drive.
5. Elm Street, on the south side, from Fifth Avenue to Sixth Avenue.
6. Elm Street, on the south side, from Second Avenue to a point one hundred fifty (150) feet east of Second Avenue.
7. Second Avenue, on the east side, from Elm Street to point one hundred fifty-two (152) feet south of Elm Street.
8. Fourth Avenue, on the east side, from Locust Street to the alley between Main Street and Locust Street.
9. Locust Street, on the south side, from Fourth Avenue to Fifth Avenue.
10. Third Avenue, on the west side, from Main Street to the alley between Main Street and Locust Street.
11. Third Avenue, on the west side, from Main Street to point one hundred ten (110) feet south of Main Street.
12. Third Avenue, on the east side, from Main Street to point eighty-two (82) feet south of Main Street.

5.06 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the municipal code, any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Mayor to erect or cause to be erected appropriate signs giving notice, and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal and the provisions of this

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section shall not apply to Sections 5.01, 5.07, and 5.08. When the signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.255 & 321.358(14))

1. The Mayor of the City of Hospers shall cause to be erected at least two signs on the south side of Cedar Street that state, "NO PARKING – THIS SIDE OF THE STREET". Said parking restriction to apply along the entire street within the Hospers City limit.

(Editor's Note: Ordinance 608 approved November 6, 2017 added subsection 5.06(1))

5.07 VEHICLE UNATTENDED. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine or citation as provided in this chapter shall be attached to the vehicle in a conspicuous place.

5.08 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon the roadway for any of the following principal purposes:

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

1. DISPLAY SALE VEHICLE. Displaying such vehicle for sale.
2. MAINTENANCE. For washing, greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
3. ADVERTISING. Displaying advertising.
4. SELLING FROM VEHICLE. Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the city code.
5. STORAGE. Storage or as junk or dead storage for more than forty-eight (48) hours.

5.09 HANDICAPPED PARKING. The city council shall create handicapped parking spaces in the number and in the dimension as required by federal and Iowa statutes or regulations. The following are designated parking spaces for use by the handicapped:

1. West side of the post office
2. In front of City Hall
3. In front of the medical clinic
4. In front of the American State Bank

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- 5.10 ALL NIGHT PARKING PROHIBITED - SNOW REMOVAL. No owner nor operator of any motor vehicle shall park or permit to be parked a motor vehicle shall park or permit to be parked a motor vehicle on any street from October 15 to April 15th of the following year between the hours of 2:00 a.m. and 6:00 a.m. of each day. This ordinance shall have no application to any motor vehicle parked on any street during the prohibited hours when said motor vehicle is parked immediately adjacent upon the place of employment of the operator thereof and he/she is then engaged in his/her employment and except attended disabled vehicles and emergency vehicles.

(Ordinance 602, approved October 5, 2015)

- 5.11 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached upon any street, alley, public or private parking lot, or drive of any service station, excepting only the driveway of a service station when actually being serviced, for more than 60 minutes. This provision shall not apply to pickup, light delivery, or panel delivery trucks.

(Ordinance 586, approved November 20, 2006)

- 5.12 RECREATIONAL VEHICLE PARKING LIMITED. No person shall park a motor home, boat, camper, trailer of any kind, or other recreational vehicle on a street or alley for more than 72 consecutive hours.

(Ordinance 586, approved November 20, 2006)

- 5.13 REFUSE CONTAINERS LIMITED. No person shall park a roll away refuse container, whether temporarily or permanently, upon any street or alley.

(Ordinance 586, approved November 20, 2006)

- 5.14 Parking Restricted on One Side of Street. The City Council may restrict parking of motor vehicles or inanimate objects on one side of a portion of a public street within the city limits if the City Council deems that parking on both sides of said portion of the public street shall disrupt traffic flow or cause a potential safety hazard to other motorists or pedestrians. The City Council shall erect appropriate signs on the portion of the public street where parking is to be restricted notifying the public of said restriction.

A violation of said ordinance may result in conviction of a simple misdemeanor and the City is authorized to tow and impound any vehicle or object that is unlawfully parked on the restricted side of a street within the city limits that is so designated by an erected sign. The City is further authorized to charge to the owner of the vehicle or object an impoundment fee prior to releasing the unlawfully parked vehicle or object.

(Ordinance 593, approved December 17, 2012)

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5.15 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 motor vehicle not displaying a handicapped parking permit.
 - b. Use by a motor vehicle displaying a handicapped permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonpoperator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly persons being so transported in a vehicle displaying a removable placard in accordance with section 321L.2 (1b) of the Iowa Code;
 - c. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
 - d. Scheduled Violation. A violation of this subsection 2 is a scheduled violation and subject to a fine of Two Hundred Dollars (\$200.00).
(Code of Iowa, Sec. 805.8A (1c))
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 person 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.
 - c. For a parking violation under section 321L.2A of the Code of Iowa, subsection 2, the scheduled fine is twenty dollars (\$20.00).
(Code of Iowa, Sec. 805.8A (1b))

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- 5.16 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 officer or traffic or in compliance with the direction of a peace officer or control signal.

(Code of Iowa, Sec. 321.236 (11))

- 5.17 PARKING ON PRIVATE PROPERTY. It is unlawful for any person to park a motor vehicle on private property not his/her own without the consent of the owner of the property, his/her agent or other person in charge thereof.

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CHAPTER 1: TRAFFIC CODE

ARTICLE 6 - STOP AND YIELD

- 6.01 VEHICLES ENTERING STOP INTERSECTION. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line, or before entering the crosswalk, or before entering the intersection, or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(Code of Iowa, 321.322(1))

- 6.02 THROUGH STREET STOPS. Every driver of a vehicle shall stop, unless a yield is permitted by this article, before entering an intersection with the following designated through streets:

(Code of Iowa, Sec. 321.345)

1. Main Street from Iowa Highway No. 60 to County Road.
2. Iowa Highway No. 60 from Birch Street to Pine Street.

- 6.03 STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following intersections from the directions indicated:

1. Main Street. Vehicles traveling east on Main Street shall stop at County Road.
2. Sixth Avenue. Vehicles traveling south on Sixth Avenue shall stop at Fir Street.
3. Cedar Street. Vehicles traveling on Cedar Street shall stop at Birch Street.
4. Third Avenue. Vehicles traveling south on Third Avenue shall stop at Cedar Street.
5. Elm Street. Vehicles traveling on Elm Street shall stop at Fourth Avenue.
6. Fir Street. Vehicles traveling on Fir Street shall stop at Fourth Avenue.
7. Locust Street. Vehicles traveling on Locust Street shall stop at Fourth Avenue.
8. Fourth Avenue N. Vehicles traveling north on 4th Avenue shall stop at Pine Street.
9. Sunrise Drive S. Vehicles traveling on Sunrise Drive S, shall stop at County Road. N.

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10. Sunrise Drive N. Vehicles traveling on Sunrise Drive N, shall stop at County Rd. N.

(Ordinance 567, approved March 5, 2001 added subsections 6.03 (5-7))

(Ordinance 569, approved May 7, 2001 added subsection 6.03 (8))

(Ordinance 585, approved October 3, 2005 added subsection 6.03 (9) & (10))

11. Vehicles traveling west on Pine Street Shall stop at Hospers Drive.

12. Vehicles traveling west on Locust Street Shall stop at Hospers Drive.

13. Vehicles traveling west on Main Street Shall stop at Hospers Drive.

14. Vehicles traveling west on Elm Street Shall stop at Hospers Drive.

15. Vehicles traveling west on Fir Street Shall stop at Hospers Drive.

16. Vehicles traveling west on Cedar Street Shall stop at Hospers Drive.

17. Vehicles traveling west on Birch Street Shall stop at Hospers Drive.

6.04 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 he/she is operating.

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

(Code of Iowa, Sec. 321.353)

6.06 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his/her 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 he/she shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

6.07 VEHICLES ENTERING YIELD INTERSECTION. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is

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approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(Code of Iowa, Sec. 321.322(2))

6.08 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the foregoing section, at the following intersections if approaching from the directions indicated:

1. Fourth Avenue. Elm Street. Vehicles traveling east on Elm Street shall yield at Sixth Avenue.
2. Elm Street. Vehicles traveling east on Elm Street shall yield at Sixth Avenue.
3. Second Avenue. Vehicles traveling north and south on Second Ave. shall yield at County Road.
4. Pine street. Vehicles traveling east on Pine Street shall yield at County Road.
5. Sixth Avenue. Vehicles traveling north on Sixth Avenue shall yield at County Road.
6. Oak Street. Vehicles traveling on Oak Street shall yield at Highland Avenue and at 2nd Avenue N.
7. Walnut Street. Vehicles traveling on Walnut Street shall yield at 2nd Avenue N.
8. Highland Avenue. Vehicles traveling on Highland Avenue shall yield at Pine Street.
9. Second Avenue South. Vehicles traveling south on Second Avenue South shall yield at Cedar Street.

(Ordinance 585, approved October 3, 2005 added subsections 6.08 (6-8))

(Ordinance 588, approved June 18, 2007 added subsection 6.08 (9))

6.09 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 so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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ARTICLE 7 - ONE WAY STREETS

- 7.01 ONE WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction when appropriate signs are in place.
(Code of Iowa, 1981, Sec. 321.236(4))

NONE

- 7.02 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT. The Mayor is authorized to determine and recommend to the council certain streets, or specified lanes upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day, and shall upon authority given by ordinance place and maintain appropriate markings, signs, barriers or other devices to give notice.

1. ERECT SIGNS. The police chief may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
2. VIOLATION. It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.
3. STREETS LISTED. The following streets may have variable lanes or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

NONE

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ARTICLE 8 - TRAFFIC CONTROL DEVICES

- 8.01 INSTALLATION. The police chief shall cause to be placed and maintained traffic control devices when and as required under the Traffic Code of this city to make effective its provisions; emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate traffic under the traffic code of this city or under state law, or to guide or warn traffic. He/she shall keep a record of all such traffic control devices.
(Code of Iowa, Sec. 321.254, 321.236(2) & 321.255)
- 8.02 CROSSWALKS. The police chief is hereby authorized, subject to approval of the council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where due to traffic conditions there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.
(Code of Iowa, Sec. 372.13(4), 321.236(2) & 321.255)
- 8.03 TRAFFIC LANES. The police chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require consistent with the traffic code of this city. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.
(Code of Iowa, Sec. 321.255 & 372.13(4))
- 8.04 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.
(Code of Iowa, Sec. 321.256)
- 8.05 STANDARDS. Traffic control devices shall comply with standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.
- 8.06 MOVING OR DAMAGING DEVICE. It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City.
- 8.07 TRAFFIC CONTROL DEVICES. The Council shall establish by the resolution and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersection, yield right-of-way intersection, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power by resolution to designate and indicate

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intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections.

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ARTICLE 9 - LOAD AND WEIGHT REQUIREMENTS

- 9.01 TEMPORARY EMBARGO. If the council by resolution 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 & 321.472)

- 9.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The police chief may, upon application in writing 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 city ordinance over those streets 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)

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

(Code of Iowa, Sec. 321.473)

- 9.04 TRUCK ROUTES. The following shall apply to the movement of trucks upon city streets:

1. THROUGH TRUCKS. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the city or making no scheduled or definite stops within the city for the purpose of loading or unloading shall travel over or upon the following streets within the city and none other:

1. Birch Street from Hospers Drive South to Cedar Street.
2. Cedar Street from Birch Street to Sixth Avenue.
3. Sixth Avenue from Cedar Street to Fir Street.
4. Fir Street from Sixth Avenue to East Corporate Line.

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2. **TRUCKS WITH SCHEDULED STOPS.** Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the city for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.
3. **OWNER'S RESPONSIBILITY.** The owner, or any other person employing or otherwise directing the driver of any vehicle, shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
(Code of Iowa, Sec. 321.472)
4. **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 marshal 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.

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CHAPTER 1: TRAFFIC CODE

ARTICLE 10 - PEDESTRIANS

- 10.01 USE SIDEWALKS. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent street.
- 10.02 WALKING IN STREET. Where sidewalks are not provided, pedestrians shall at all times when walking on or along a street, walk on the left side of the street, or facing traffic on one-way streets.
(Code of Iowa, Sec. 321.326)
- 10.03 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)
- 10.04 HITCH HIKING. No person shall stand in the travelled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.
(Code of Iowa, Sec. 321.331)

TITLE IV

CHAPTER 1: TRAFFIC CODE

ARTICLE 11 - BICYCLES

- 11.01 EFFECT OF REGULATIONS. These regulations applicable to bicycles 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.
- 11.02 TRAFFIC CODE APPLICABLE. 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 this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle, he/she shall be subject to all regulations applicable to pedestrians.
- 11.03 RIDING ON BICYCLES. 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.
- 11.04 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. The following shall also apply:
1. NOT MORE THAN TWO ABREAST. 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.
 2. USE PATH WHEN AVAILABLE. 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.
- 11.05 RIDING ON SIDEWALKS. No person shall ride a bicycle or use roller skates, roller blades, or skateboards upon a sidewalk within a business district. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey such signs. 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 such pedestrian.
- 11.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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- 11.07 EMERGING FROM ALLEY OR DRIVEWAY. The operators 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.
- 11.08 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, in such a manner as to afford the least obstruction to pedestrian traffic.
- 11.09 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 handlebars.
- 11.10 EQUIPMENT ON BICYCLES. No person shall operate a bicycle unless it is equipped with the following equipment:
1. **LAMP**. A 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 five hundred (500) feet to the front and with 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. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
 2. **BRAKE**. A brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

TITLE IV

CHAPTER 1: TRAFFIC CODE

ARTICLE 12 - ENFORCEMENT

12.01 ARREST OR CITATION. Whenever a police officer has reasonable cause to believe that a person has violated any provision of this chapter such officer may:

1. IMMEDIATE ARREST. Immediately arrest such person and take him/her before a local magistrate.
2. ISSUE CITATION. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the city law enforcement agency.
(Code of Iowa, Sec. 805.6 & 805.8A)

12.02 PARKING VIOLATION. Admitted violations of parking restrictions imposed by this chapter may be charged upon a simple notice of a fine in accordance with the following schedule, except for a parking violation under Code of Iowa Section 321L.2A, subsection 2, Section, section 321L.2A, subsection 3, section 321L.3, 321L.4, subsection 2, and section 321L.7.

1. FIRST VIOLATION. For the first violation of any provision of this chapter, the penalty shall be five dollars (\$5.00) providing much penalty is paid within thirty (30) days of the time of violation. If the fine is not paid within thirty (30) days, the scheduled fine for a parking violation increases by five dollars (\$5.00).
2. SECOND VIOLATION. For any second violation of this chapter, within twenty-four (24) hours of the first violation, the penalty shall be five dollars (\$5.00) providing much penalty is paid within thirty (30) days of the time of violation. If the fine is not paid within thirty (30) days, the scheduled fine for a parking violation increases by five dollars (\$5.00).
3. SUBSEQUENT VIOLATIONS. For any subsequent violation within any twenty-four (24) hour period, the penalty shall be five dollars (\$5.00) providing much penalty is paid within thirty (30) days of the time of violation. If the fine is not paid within thirty (30) days, the scheduled fine for a parking violation increases by five dollars (\$5.00).

(Code of Iowa 805.8A (1)(a))

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- 12.02 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that the particular vehicle described in the information was parked in violation of this chapter, and the defendant named in the information was the registered owner at the time in question.
- 12.03 IMPOUNDING VEHICLES. A police 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 upon a roadway and 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 upon a street 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. **PARKED OVER SEVENTY-TWO (72) HOUR PERIOD.** When any vehicle is left parked upon a street for a continuous period of seventy-two (72) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found he/she shall be given an opportunity to remove the vehicle.
(Code of Iowa, Sec. 321.236(1))
 4. **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))
- 12.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine of citation as hereinbefore provided shall be attached to the vehicle in a conspicuous place.
(Code of Iowa, Sec.753.13)
- 12.05 SCHEDULED VIOLATIONS. For violations of the Traffic Code which are designated by Section 805.8A of the Code of Iowa to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the Code of Iowa.
(Code of Iowa, Sec. 805.8 & 805.8A)

TITLE IV

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 13 - STREET AND ALLEY REGULATIONS

- 13.01 OBSTRUCTING OR DEFACING STREETS. It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.
(Code of Iowa, Sec. 716.1)
- 13.02 INJURING NEW PAVEMENT. It shall be unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.
(Code of Iowa, Sec. 364.12(2))
- 13.03 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.
(Code of Iowa, Sec. 321.369)
- 13.04 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person to willfully remove, throw down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed for the purpose of guarding or enclosing unsafe or dangerous places in a highway, street, alley, avenue or bridge without the consent of the person in control.
(Code of Iowa, Sec. 716.1)
- 13.05 DUMPING OF SNOW. It shall be 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 streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition, except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or his/her agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.
(Code of Iowa, Sec. 364.12(2))
- 13.06 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way 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.

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- 13.07 PLAYING IN STREETS. It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by authority of the city council for such purposes.
(Code of Iowa, Sec. 364.12(2))
- 13.08 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when much work is done for hire or as a business. This shall not be construed to prevent any person from washing or cleaning his/her own vehicle or equipment when it is lawfully parked in the street.
- 13.09 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any new or used car or cars, machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale or offering same for sale, without permission of the council.
- 13.10 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.
- 13.12 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 (c))
- 13.13 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))
- 13.14 DISCHARGING WATER ONTO STREETS. No person shall cause or permit any water spout, trough, gutter or balcony extending from any building owned or leased to discharge or conduct water upon the surface of any sidewalk, but all such water shall be conducted under the sidewalk in accordance with plans of the Public Works Director or his/her designee or city engineer, and under his/her direction.
- 13.15 SIGN POST. No person shall erect or maintain any sign post, or other post or pole for any purpose on any street or alley right-of-way, except by permission of the council.
- 13.16 BUILDING MATERIAL. No person shall place or deposit any building material in any street without a written permit from the mayor, subject to revocation by the council, to use part of the street, in front of or adjacent to the lot whereon a building is to be erected, for depositing thereon the materials for such building, but all material shall be

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placed in such a manner as not to obstruct the gutters of the street. The person occupying a portion of the street shall at all times enclose or guard the same in such a manner as to protect persons and animals from injury thereby, and with warning lights placed and burning through the entire night.

- 13.17 USE OF STREET AREA. No person shall hereafter construct, keep or maintain any opening, areaway, stairway, coal hole, gasoline tank or pump, loading platform, gates or doors, or any rooms or excavations over or under any part of any public street, alley, or other public property, without the consent of the council, and such consent shall only be given upon written application therefor accompanied by such plan or description as the council may require of the nature and kind of space which is desired to be kept or maintained and the purpose and use to be made thereof.

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 14 - NAMING OF STREETS

14.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. EXTENSION OF EXISTING STREET. Streets added to the city that are natural extensions of existing streets shall be assigned the name of the existing street.
2. ORDINANCE. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
3. STREET COMMISSION. Proposed street names shall be referred to the council for review and recommendation before placing on plats or presentation of a street name ordinance, or placing on the official map.

14.02 RECORDING STREET NAMES. Following adoption of an ordinance naming or changing the name of a street, the mayor and clerk shall certify and file a copy thereof with the county recorder and county auditor.

(Code of Iowa, Sec. 354.26)

14.03 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 article. 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 14.03 of Title IV of the Municipal Code of Hospers, Iowa.

14.04 REVISION OF STREET NAME MAP. If in accordance with the provisions of this Article, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the governing body with an entry on the Official Street Name Map as follows: "On (date), by official action of the city council, the following change(s) were made in the Official Street Name Map: (brief description)," which entry shall be signed by the mayor and attested by the clerk. No amendment to this article which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

14.05 CHANGING NAME OF STREET. The council may by ordinance change the name of a street.

(Code of Iowa, Sec. Sec. 354.26 & 592.7)

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 15 - VACATION AND DISPOSAL

15.01 POWER TO VACATE. When in the judgment of the council it would be in the best interest of the city to vacate a street or alley, or portion of a street or alley, they may do so in accordance with the provisions of this article.
(Code of Iowa, Sec. 364.12(2a))

15.02 NOTICE OF VACATION HEARING. The council shall cause to be published a notice of public hearing, at which time the proposal to vacate shall be considered. In addition to published notice, notice shall be posted at least twice on each block along the street or alley proposed to be vacated not more than 25 days nor less than 10 days prior to the date set for the hearing.

15.03 FINDINGS REQUIRED. No street or alley, or portion of a street or alley shall be vacated unless the council finds that:

1. PUBLIC USE. The street or alley 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.
(Code of Iowa, Sec. 364.15)

15.04 DISPOSAL OF 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, or portion of a street or alley, they may do so by resolution following notice and hearing.
(Code of Iowa, Sec. 364.7)

15.05 DISPOSAL BY GIFT LIMITED. The city may not dispose of a vacated street or alley, or portion of a street or alley, by gift except to a governmental body for a public purpose.
(Code of Iowa, Sec. 364.7(3))

NOTE: The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 16 - STREET GRADES

16.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks which have been established by ordinance are hereby confirmed, ratified and established as official grades.

16.02 RECORD MAINTAINED.

The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request. The ordinances that established the official grades of streets, alleys and sidewalks are:

Editor's Note: The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

| | |
|---------------|---|
| Ordinance No. | Adopted |
| 504 | November 12, 1963 (Copy of Ordinance Follows) |

TITLE IV

Street Ordinance Hospers, Iowa

ORDINANCE NO. 504

An ordinance establishing street grades on certain streets and avenues in the Town of Hospers, Iowa,

- Section 1 - Datum Plane
- Section 2 - Elevations
- Section 3 - Intermediate Grades
- Section 4 - Repealing Conflicting Ordinances
- Section 5 - Effective Time

Be it enacted by the Council of the Town of Hospers, Iowa;

Section 1 - All grades are established and reckoned in feet and decimals of feet above an imaginary plane known as the datum plane. The datum plane is one thousand three hundred forty and seventy hundredths feet (1,340.70 ft.) below the top of the west rail opposite Mile Post #219 on the Chicago, Minneapolis & Omaha Railroad, said datum plane being established by U. S. Coast and Geodetic Survey in the year 1934.

Section 2 - That the following elevations above the datum plane of Hospers, Iowa, be the established grades for the centerlines of streets and avenues of the points designated above said datum plane. (Add 1,300 feet to all grade elevations to adjust to Town datum).

| | <u>Point</u> | <u>Elevation</u> |
|----------------|---|------------------|
| Seventh Street | 40 feet west of west line First Avenue | 44.96 |
| | 15 feet west of west line First Avenue | 44.57 |
| | 15 feet east of east line First Avenue | 41.84 |
| | Centerline Second Avenue | 41.30 |
| | Centerline Third Avenue | 45.89 |
| | Centerline Fourth Avenue | 50.63 |
| | 224.6 feet east of centerline Fourth Avenue | 54.85 |
| | Centerline Fifth Avenue | 57.68 |
| | 115 feet west of west line Sixth Avenue | 62.20 |
| | West line Sixth Avenue | 66.06 |
| Eighth Street | 31.3 feet west of east line First Avenue | 44.33 |
| | 52 feet east of east line First Avenue | 41.60 |
| | West line Second Avenue | 41.98 |
| | East line Second Avenue | 42.26 |
| | West line Third Avenue | 44.54 |
| | East line Third Avenue | 45.75 |

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| | <u>Point</u> | <u>Elevation</u> |
|---------------|---|------------------|
| Eighth Street | West line Fourth Avenue | 48.27 |
| | East line Fourth Avenue | 48.85 |
| | 105 feet east of east line Fourth Avenue | 50.28 |
| | West line Fifth Avenue | 52.46 |
| | East line Fifth Avenue | 53.00 |
| | West line Sixth Avenue | 56.00 |
| Ninth Street | East line First Avenue | 42.77 |
| | 45 feet east of east line First Avenue | 41.14 |
| | West line Second Avenue | 42.99 |
| | East line Second Avenue | 43.37 |
| | West line Third Avenue | 45.53 |
| | East line Third Avenue | 46.00 |
| | 125 feet east of east line Third Avenue | 47.25 |
| | West line Fourth Avenue | 49.98 |
| | East line Fourth Avenue | 50.75 |
| | West line Fifth Avenue | 53.51 |
| | East line Fifth Avenue | 54.73 |
| | 135 feet east of east line Fifth Avenue | 56.73 |
| | West line Sixth Avenue | 60.95 |
| | East line Sixth Avenue | 63.50 |
| | 65 feet east of east line Sixth Avenue | 64.25 |
| | 498 feet east of east line Sixth Avenue | 76.35 |
| Second Avenue | South line Seventh Street | 41.27 |
| | 165 feet south of south line Seventh Street | 42.59 |
| | North line Eighth Street | 42.01 |
| | South line Eighth Street | 42.13 |
| | North line Ninth Street | 43.10 |
| Third Avenue | South line Seventh Street | 46.01 |
| | North line Eighth Street | 44.90 |
| | South line Eighth Street | 45.34 |
| | 147 feet south of south line Eighth Street | 44.58 |
| | North line Ninth Street | 45.62 |
| Fourth Avenue | South line Seventh Street | 50.33 |
| | North line Eighth Street | 48.65 |
| | South line Eighth Street | 48.31 |
| | 166 feet south of south line Eighth Street | 48.84 |
| | North line Ninth Street | 49.78 |

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| | <u>Point</u> | <u>Elevation</u> |
|-----------------|--|------------------|
| Fifth Avenue | South line Seventh Street | 57.29 |
| | 215 feet south of south line | |
| | Seventh Street | 54.24 |
| | North line Eighth Street | 53.02 |
| | South line Eighth Street | 52.61 |
| | 247 feet south of south line Eighth Street | 53.40 |
| | North line Ninth Street | 54.25 |
| Sixth Avenue | South line Seventh Avenue | 65.75 |
| | 215 feet south of south line | |
| | Seventh Street | 58.79 |
| | 7 feet south of north line Eighth Street | 56.38 |
| | 197 feet south of south line Eighth Street | 58.77 |
| | North line Ninth Street | 61.97 |
| Highland Avenue | North line Seventh Street | 54.80 |
| | 142.4 feet north of north line | |
| | Seventh Street | 55.26 |
| | 392.4 feet north of north line | |
| | Seventh Street | 58.86 |
| | 657.4 feet north of north line | |
| | Seventh Street | 60.02 |

Section 3 - The intermediate grades between grade points, established in Section 2 hereof, shall be straight lines except at the intersections of abutting grades, where smooth parabolic curves shall be used.

Section 4 - All existing ordinances, or parts of ordinances, in conflict with this ordinance are hereby repealed.

Section 5 - This ordinance shall be in effect on and after its passage by the Council of the Town of Hospers, and ~~publication in the official newspaper of said Town.~~ *Posting in*

Passed and adopted by the Council on the 12th day of Nov., 1963.

TOWN OF HOSPERS, IOWA

Robert W. Schaefer, Mayor

ATTEST:

Charles F. Schaefer, Clerk

TITLE IV

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 17 - SNOW REMOVAL AND STREET CLEANING

17.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "SNOW DAY" shall mean any day of the year that snow falls to an accumulated amount of two inches or more.
2. "SNOW PLOWING" shall mean the pushing of snow by mechanical means from the center of the traveled portion of the street to the outside edges of the traveled portion of the street.
3. "SNOW REMOVAL" shall mean the loading and hauling away of snow from the street right-of-ways.
4. "STREET CLEANING" shall mean the washing, sweeping and loading of dirt and debris from the street by mechanical or manual means.

17.02 SNOW DAYS. On snow days motor vehicle parking shall be restricted as follows:

1. NORTH-SOUTH STREETS. No parking on all north-south streets from 2:00 o'clock a.m. to 6:00 a.m., or until snow has been plowed on north-south streets.
2. EAST-WEST STREETS. No parking on all east-west streets from 2:00 o'clock a.m. to 6:00 o'clock a.m., or until snow is plowed on east-west streets.
3. These rules shall be in effect from October 1 to April 15.

17.03 SNOW REMOVAL. To facilitate the removal of snow, special and temporary no parking areas will be established at the direction of the police chief by placement of temporary "NO PARKING, SNOW REMOVAL" signs along the street. These signs shall be placed at least two (2) hours before work is to begin and shall not be enforced for one hour after they are placed.

17.04 STREET CLEANING. To facilitate street cleaning, special and temporary no parking areas will be established at the direction of the police chief by placement of temporary "NO PARKING, STREET CLEANING" signs along the street. These signs shall be placed at least two (2) hours before work is to begin and shall not be enforced for one hour after they are placed.

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- 17.05 ENFORCEMENT. The police chief shall be responsible for the enforcement of said special parking restrictions when they are in effect. When a motor vehicle is parked in violation of the special parking restrictions, a police officer shall attempt to locate the owner of the vehicle to have it removed. If the owner cannot be located after reasonable attempts, the vehicle shall be towed away at the direction of the police officer, and the cost of the towing shall be charged to the owner of the vehicle.
- 17.06 SPECIAL PENALTY. Any person who violates or fails to comply with the provisions of this article shall be guilty of a simple misdemeanor and shall be fined in accordance with the amount set forth in the Hospers Traffic Code for parking violations.

TITLE IV

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 18 - RAILROAD CROSSINGS

18.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "RAILROAD TRAIN" shall mean an engine or locomotive with or without cars coupled thereto, operated upon rails.
(Code of Iowa, Sec. 321.1(29))
2. "OPERATOR" shall mean a person that owns, operates, drives or controls a railroad train.

18.02 WARNING SIGNALS. Operators shall sound a bell, horn, or whistle at least sixty (60) rods before a motor vehicle crossing is reached and shall ring the bell continuously until the crossing is passed.

18.03 FLYING SWITCHES. No operator shall cause any railroad car unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad is stationed at the intersection to give warning of cars approaching.

18.04 BLOCKING STREETS. A railroad corporation or its employees shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley for a period of time in excess of ten minutes except:

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking any object or person on the track.
3. When the train is disabled.
4. When necessary to comply with the governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
(Code of Iowa, Sec. 327G.32)

18.05 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

TITLE IV

CHAPTER 2: STREETS AND ALLEYS

ARTICLE 19 - BUILDING NUMBERING

19.01 DEFINITIONS. For use in this article the following shall be defined:

1. "PRINCIPAL BUILDING" shall mean the main building on any lot or subdivision.
2. "OWNER" shall mean the owner of the principal building.

19.02 OWNER REQUIREMENTS. Every owner shall comply with the following building number requirements:

1. **OBTAIN BUILDING NUMBER.** The owner shall obtain the assigned number to his/her 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 maintain on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) 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 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))

19.03 BUILDING NUMBERING MAP. The clerk shall be responsible for preparing and maintaining a building numbering map, in accordance with the following provisions, and filing it in his/her office.

1. **BASE LINES.** Main Street constitutes the base line for the numbering system as applied to streets running east and west. State Highway 60 constitutes the base line for the numbering system as applied to streets running north and south.
2. **DIAGONAL AND CURVED STREETS.** Diagonal and curved streets are classified as east and west or north and south streets depending in which classification their general alignment most nearly conforms.

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3. EVEN NUMBERS. Even numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the south side of streets running east and west.
 4. ODD NUMBERS. Odd numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the north side of streets running east and west.
 5. ASSIGNMENT OF NUMBERS TO PROPERTIES. Each principal building shall be assigned a number in accordance with the provisions of this section. In case there are vacant lots or double lots, numbers shall be reserved to provide for an orderly numbering system when the lots are occupied or divided.
- 19.04 ISSUE NUMBERS. The clerk shall issue the assigned number in accordance with the numbering map to owners upon their request.
- 19.05 ENFORCEMENT. The clerk shall be responsible for enforcing the provisions of this article.

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CHAPTER 3: SIDEWALKS

ARTICLE 20 - SIDEWALK REGULATIONS

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

1. "SIDEWALK" shall mean all permanent public walks in business, residential or suburban areas.
2. "ESTABLISHED GRADE" shall mean that grade established by this city for the particular area in which a sidewalk is to be constructed.
3. "BROOM FINISH" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
4. "WOOD FLOAT FINISH" shall mean a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.
5. "PORTLAND CEMENT" shall mean any type of cement except bituminous cement.
6. "ONE-COURSE CONSTRUCTION" shall mean that the full thickness of the concrete is placed at one time, using the same mixture throughout.
7. "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.
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.

20.02 RESPONSIBILITY FOR MAINTENANCE. It shall be the responsibility of the abutting property owners to maintain in a safe and hazard free condition any sidewalk outside the lot and property lines and inside the curb lines or travelled portion of the public street.

(Code of Iowa, Sec. 364.12(2c))

20.03 FAILURE TO MAINTAIN - PERSONAL INJURIES. If the abutting property owner does not maintain sidewalks as required and 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

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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)

- 20.04 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 him/her 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. The abutting property owner may not remove established sidewalks in lieu of repair or replacement.

(Code of Iowa, Sec. 364.12(2d, e))

(Editor's Note: Ordinance 581, approved November 15, 2004)

- 20.05 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. MATERIAL. Portland cement concrete shall be the only material 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 placed so that the surface will be to the established grade at its location.
5. LENGTH, WIDTH AND DEPTH.
 - a. Residential sidewalks shall be at least **five** (5) feet wide and four (4) inches thick, and each section shall be no more than **four** (4) feet in length or correspond with the adjoining sidewalks.
 - 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 and width.
 - c. Driveway areas shall be not less than six (6) inches in thickness.

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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 shall establish a different distance due to circumstances.
7. GRADE. Curb tops shall be on level with the center line 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 when at the curb and not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk in residential areas.
9. SLOPE. All sidewalks shall slope 0.25 inch per foot toward the curb.
10. FINISH. All sidewalks shall be finished with a "broom" or "wood float" finish.
11. RAMPS FOR HANDICAPPED. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty inches wide, shall be sloped at not greater than one (1) inch of rise per twelve inches lineal distance, except that a slope no greater than one (1) inch or rise per eight inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk. Ramps shall be installed whenever sidewalks are installed, repaired, replaced or by order of the city council. The City will be responsible to cut or grind existing curb. The abutting property owner shall be responsible for sidewalk replacement unless otherwise determined by the city council.
12. DETERMINATION AND SPECIFICATIONS. Sidewalks will be determined to be in need of repair or replacement when the following conditions are determined by the council to exist:
 - a. Heaves equal to or exceeding one (1) inch;
 - b. Cracks or separations equal to or exceeding one-half (1/2) inch;
 - c. Surface degradation or loose material causing a safety hazard; and
 - d. The grade of the surrounding property causes water to drain out or settle on the sidewalk.

(Editor's Note: Ordinance 582, approved November 15, 2004 amended Section 20.05)

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20.06 OPENINGS AND ENCLOSURES. It shall be 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.

20.07 ENCROACHING STEPS. It shall be 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.

20.08 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or 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.

20.09 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It shall be the responsibility of the abutting property owners to promptly remove from the sidewalks natural accumulations of snow and ice (including ice formed from water flowing onto the walk and freezing). In the Hosper's Commercial Districts as defined in the City's restricted Residence District Ordinance (areas considered nonresidential), a reasonable time shall be twelve (12) hours from the cessation of snowfall. In all other areas of the City, a reasonable time shall be deemed to be twenty-four (24) hours from the cessation of snowfall. If an abutting property owner does not remove snow and ice within the time specified in this Section, the City may do so and assess the costs, including a reasonable administration fee, against the property owner for collection in the same manner as a property tax pursuant to Section 364.12(2) (e) of the Code of Iowa.

20.10 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.

20.11 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.

20.12 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

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- 20.13 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.
(Code of Iowa, Sec. 364.12(2))
- 20.14 MERCHANDISE DISPLAY. It shall be 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 a building in the business district be occupied for such purposes.
- 20.15 SALES STANDS. It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the clerk.
- 20.16 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.
- 20.17 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.
- 20.18 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.

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- 20.19 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.

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CHAPTER 4: SNOWMOBILES

ARTICLE 21 - GENERAL PROVISIONS

21.01 DEFINITIONS. For use in this article the following terms shall be defined:

1. "SNOWMOBILE" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow and ice.

(Code of Iowa, Sec. 321G.1 (18))

2. "OPERATOR" shall mean a person who operates or is in actual physical control of a snowmobile.
3. "OPERATE" shall mean to ride in or on and control the operation of a snowmobile.
4. "STREET" shall mean a public thoroughfare, roadway, alley, or trail used for motor vehicular traffic including an interstate, state, or county highway.
5. "SHOULDER" shall mean the portion of a street immediately adjacent to the right side of a street which is customarily used only for emergency travel and parking.
6. "DEAD MAN THROTTLE" shall mean a device which disengages the motor from the driving track of a snowmobile when pressure is removed from the accelerator or throttle.

21.02 HOURS OF OPERATION. No person shall operate a snowmobile on public or private property within the city between the hours of 11:00 p.m. and 7:00 a.m. except when responding to an emergency.

21.03 AGE OF OPERATION. No minor under 16 years of age may operate a snowmobile within the corporate limits of the city.

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21.04 OPERATION OF SNOWMOBILE. A snowmobile may not be operated on any street, shoulder of a street, sidewalk, public property, city park, or any other area within the corporate limits of the city except as specifically permitted as follows:

1. **DURING EMERGENCY.** On streets in an emergency during the period of time when at locations where snow and ice upon the streets render travel by conventional motor vehicles impractical and unsafe.
2. **TRAILS.** On trails in city parks or on other public property which is specially designated by the (mayor, chief of police, or city council) and which is marked by appropriate signs giving notice that snowmobiles may be operated in the area.
3. **PRIVATE PROPERTY.** On the private property of the operator or owner of a snowmobile or on any other private property in the city with the consent or permission of the property owner.
4. **PUBLIC AREAS PROVIDED FOR SNOWMOBILES.** On other public areas specifically provided by the council by resolution. Such resolutions shall limit snowmobile operation on such public areas to no more than 30 days at one time, shall designate the hours during which snowmobiles may be operated in the area, and shall provide that the areas be posted notifying the public of these requirements.

21.05 ADEQUATE SNOW AND ICE COVER. A snowmobile may not be operated within the city on public or private property without adequate snow or ice cover. A snow or ice cover of no less than four (4) inches shall be deemed adequate.

21.06 CROSSING OF STREET. A snowmobile may make a direct crossing of a street or highway provided:

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

1. **NINETY DEGREE ANGLE.** The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing; and
2. **COMPLETE STOP.** The snowmobile is brought to a complete stop before crossing the shoulder or main traveled portion of the street, and
3. **YIELD TO TRAFFIC.** The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
4. **CROSSING AT INTERSECTION.** In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

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21.07 REQUIRED EQUIPMENT. All snowmobiles operated within the city shall have the following equipment:

1. MUFFLER.

- a. The exhaust of every internal combustion engine used in any snowmobile shall be effectively muffled by equipment constructed and used to muffle all snowmobile noise in a reasonable manner in accordance with rules adopted by the Department of Natural Resources.
- b. A separate placard shall be affixed, permanently and conspicuously, to any new snowmobile sold or offered for sale in this state that does not meet the muffler requirements as stated above. The placard shall designate each snowmobile which does not meet the muffler requirements.
- c. A snowmobile manufactured after July 1, 1975, which is sold, offered for sale or used in this state, except in an authorized special event, shall have a muffler system that limits engine noise to not more than seventy-eight (78) decibels as measured on the "A" scale at a distance of fifty (50) feet.

2. LIGHTS. At least one headlight and one taillight.
(Code of Iowa, Sec. 321G.12)

3. BRAKES. Brakes which conform to standards prescribed by the commissioner of public safety.

4. SAFETY THROTTLE. A safety or "dead man" throttle in operating condition.

21.08 UNLAWFUL OPERATION. It shall be unlawful for any person to operate any snowmobile in the city in the manner described:

1. SPEED. At a rate of speed greater than reasonable or proper under all existing circumstances.

(Code of Iowa, Sec. 321G.13(1a))

2. CARELESS MANNER. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

(Code of Iowa, Sec. 321G.13(1b))

3. UNDER THE INFLUENCE. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

(Code of Iowa, Sec. 321.13(1c))

4. IMPROPER EQUIPMENT. Without a proper headlight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render

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clearly discernible persons and vehicles at a distance of 500 feet ahead; or without proper equipment as required by Section 21.07 of this Article.

(Code of Iowa, Sec. 321G.13(1d))

5. **IN TREE NURSERY.** In any tree nursery or planting in a manner which damages or destroys growing stock.
(Code of Iowa, Sec. 321G.13(1e))
 6. **UNREGISTERED SNOWMOBILE.** Without having such snowmobile registered as provided for by Iowa law except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his/her immediate family.
 7. **FINANCIAL RESPONSIBILITY / NEGLIGENCE.** The owner or operator of a snowmobile must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B. The owner and operator of a snowmobile are liable for any injury or damage caused by the negligent operation of the snowmobile.
 8. **UNATTENDED VEHICLE.** It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.
 9. **UPON AN OPERATING RAILROAD RIGHT-OF-WAY.** A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer or railroad employee in the lawful discharge of the officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
(Code of Iowa, Sec. 321G.13(1h))
 10. **NOISE.** It is unlawful to operate a snowmobile in a manner as to create a loud, unnecessary or unusual noise so as to disturb with the peace and quiet of other persons.
- 21.09 **TOWING.** No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.
- 21.10 **SINGLE FILE.** Snowmobiles shall, only when permitted on the travelled way, be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.

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- 21.11 ACCIDENT REPORTS. Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with the State law

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CHAPTER 5: GOLF CARTS, ATV'S & OFF-ROAD UTILITY VEHICLES

ARTICLE 22 - GENERAL PROVISIONS

22.01 GOLF CARTS, ATV'S AND OFF-ROAD UTILITY VEHICLES. Golf carts, ATV's and Off-Road Utility Vehicles, hereinafter referred to as "non-autos", may be operated on city streets and alleys within the city limits of the City of Hospers, Iowa by persons possessing a valid driver's license. The operation of non-autos on city streets and alleys as provided above are subject to the following additional conditions:

1. A non-auto, that is a golf cart, shall be equipped with both a slow-moving vehicle sign above rear bumper of the cart and a bicycle safety flag that shall be displayed five (5) or more feet above the surface of the street. All other non-autos shall only be required to display the bicycle safety flag.
2. A non-auto shall only be operated on city streets and alleys from sunrise to sunset.
3. A non-auto shall be equipped with adequate brakes.
4. A non-auto operator shall observe and obey all traffic regulations and traffic control devices. If an operator commits three or more violations within a period of one year, the City of Hospers may revoke the operator's permit for a period of one year. The operator's permit shall then be reinstated only upon proof of satisfaction of all conditions placed upon the operator for reinstatement at the time of revocation.
5. The owner or operator of a non-auto must maintain and provide current proof of financial responsibility in accordance with section 321.20B of the Iowa Code. The owner and operator of a non-auto are liable for any injury or damage occasioned by the negligent operation of that non-auto.
6. Whenever a non-auto is involved in an accident resulting in injury or death to any person or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer.

22.02 PERMIT. A person desiring to operate a non-auto in the City of Hospers, Iowa pursuant to the conditions of this ordinance shall first obtain, via an application submitted at the City Clerk's Office, a permit to allow such operation. The fee for the permit shall be \$25.00 annually and shall be issued by the City Clerk, provided the applicant satisfies the applicable conditions of this ordinance and such other requirements as said city officials and/or the City Council may from time to time reasonably impose. A copy of the permit and proof of insurance shall be carried by the operator named in the permit while operating a non-auto. A permit may be issued for any or all of the following purposes:

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- a. Going to and from places of employment;
- b. Going to and from personal or business properties;
- c. Gardening/lawn work;
- d. Individuals having handicapped parking privileges authorized by the Iowa Department of Transportation; and
- e. Special events authorized by the city council.
- f. Personal use.

For purposes of this ordinance, a "non-auto" includes a, golf cart, all-terrain vehicle (ATV) and an off-road utility vehicle. A "non-auto" does not include a snowmobile.

22.03 REPEAL OF CONFLICTING ORDINANCES. Any section of this ordinance that is in conflict with this new ordinance is hereby repealed and the City of Hospers adopts and incorporates by reference Section 321.247 of the Iowa Code.

(Editor's Note: Ordinance 604 approved by Council March 7, 2016 for Golf Cart, ATV and Off-Road Utility Vehicle Use)

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TITLE V - BUSINESS, OCCUPATIONS, AND BUILDING REGULATIONS

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CHAPTER 1: LIQUOR AND BEER CONTROL

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 PURPOSE. The purpose of this chapter is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, morals and general welfare of this community.
- 1.02 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:
1. "Person of Good Moral Character" shall mean any person who meets all of the following requirements:
(Code of Iowa, Sec. 123.3(35))
 - a. Has such financial standing and good reputation as will satisfy the commission and the administrator that he/she will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his/her operations under state law. The administrator shall not require the person to post a bond to meet the requirements of this paragraph.
 - b. Is not prohibited by the Code of Iowa from obtaining a liquor license or beer permit.
(Code of Iowa, Sec. 123.40)
 - c. Has not been convicted of a felony. However, if his/her conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his/her rights of citizenship have been restored by the Governor, the administrator may determine that he/she is a person of good moral character notwithstanding such conviction.
 - d. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, administrators and partners of such person, and to any person who directly or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this provision, an individual and his/her spouse shall be regarded as one person.
 2. "Club" shall mean any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof,

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membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

(Code of Iowa, Sec. 123.3(12))

3. "Commercial establishment" shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the standards and specifications of the State of Iowa Alcoholic Beverage Division.

(Code of Iowa, Sec. 123.3(13))

4. "Grocery store" shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.

(Code of Iowa, Sec. 123.123(19))

5. "Pharmacy" shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, Sec. 123.123(36))

6. "Hotel or Motel" shall mean a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.

(Code of Iowa, Sec. 123.3(21))

7. "Legal age" shall mean twenty-one (21) years of age or more.

(Code of Iowa, Sec. 123.3(25))

8. "Administrator" shall mean the administrator of the division.

(Code of Iowa, Sec. 123.3(1))

9. "Division" or "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.

(Code of Iowa, Sec. 123.3(17))

1.03 STATE LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

1.04 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

(Code of Iowa, Sec. 123.47 (1))

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

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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 the 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 beer permittee under State laws.

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

2. A person who is eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(Code of Iowa, Sec. 123.47 (3))

- a. A simple misdemeanor punishable as a scheduled violation under Code of Iowa section 805.8C, subsection 7.
- b. A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.
- c. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

- 1.05 PUBLIC CONSUMPTION OR INTOXICATION AND OPEN CONTAINER IN PUBLIC PLACES. It is unlawful for any person to use or consume alcoholic liquors, wine, or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors, wine, or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).

(Code of Iowa, Sec. 123.46)

- 1.06 OPEN CONTAINERS IN A MOTOR VEHICLE. 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. "Passenger area" means the area 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

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transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under Code of Iowa, section 805.8A, subsection 14, paragraph “e”.

(Code of Iowa, Sec. 321.284)

1.07 OPEN CONTAINERS IN MOTOR VEHICLES — PASSENGERS.

1. 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. “*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.
2. This section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, motorsports recreational vehicle, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.
3. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under Code of Iowa, section 805.8A, subsection 14, paragraph “e”.
4. A person under the age of twenty-one years who violates this section is guilty of a violation of Code of Iowa, section 123.47.

(Code of Iowa, Sec. 321.284A)

1.08 OPEN CONTAINER IN PUBLIC PLACES. 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 a public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

(Code of Iowa, Sec. 123.46(2))

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CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

- 2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, manufacture for sale, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and Code of Iowa, Chapter 123.
(Code of Iowa, Sec. 123.22, 123.122 & 123.171)
- 2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his/her discretion allow the executor or administrator of a permittee or licensee to operate the business of the descendant for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.
(Code of Iowa, Sec. 123.38)
- 2.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:
1. CLASS "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.
(Code of Iowa, Sec. 123.124 & 123.131)
 2. CLASS "C". A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.
(Code of Iowa, Sec. 123.124 & 123.129)
- 2.04 WINE PERMITS - CLASSES. Wine permits shall be classed as follows:
1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.
(Code of Iowa, 123.173 & 123.177)
 2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.
(Code of Iowa, 123.173 & 123.178)

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2.05 LIQUOR LICENSES - CLASSES. Liquor control licenses shall be classed as follows:

1. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

(Code of Iowa, Section 123.30(3)(a))

2. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises.

(Code of Iowa, Sec. 123.30(3)(b))

3. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

(Code of Iowa, Sec. 123.30(3)(c))

4. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other liquor control licenses, wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license. The division may issue a Class "E" liquor control license for

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premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other applicant for a class "E" license has been made within the previous twelve consecutive months.

(Code of Iowa, Section 123.30(3)(e))

- 2.06 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit or wine permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by him/her.

(Code of Iowa, Sec. 123.31)

- 2.07 BOND FILED. The application shall be accompanied by the necessary fee and bond, if required, and be filed with the council for approval or disapproval.

(Code of Iowa, Sec. 123.32 & 123.127)

1. LIQUOR CONTROL LICENSE. Upon posting bond in the penal sum of \$5,000.00, and conditioned upon the payment of all taxes payable to the state under the provisions of the Iowa beer and liquor control act and compliance with all provisions of the act.

(Code of Iowa, Sec. 123.30(1))

2. BEER PERMIT AND WINE PERMIT. With class "B" and "C" beer permits, or class "A" and "B" wine permits, upon posting bond in the penal sum of \$500.00, and conditioned upon the faithful observance of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.128 & 123.129)

- 2.08 CONDITIONS FOR APPROVAL. No liquor control license or beer or wine permit shall be approved unless:

1. CHARACTER OF APPLICANT. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, Sec. 123.30(1))

2. RIGHT OF ENTRY. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.

(Code of Iowa, Sec. 123.30(1))

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3. ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS. No interior access or residential or sleeping quarters is permitted or maintained unless permission is granted by the administrator in the form of a living quarters permit.
(Code of Iowa, Sec. 123.30(2))
4. LOCATION OF PREMISES. The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.
(Code of Iowa, Sec 123.128(1b))
5. SEATING CAPACITY. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
(Code of Iowa, Sec. 123.128(1b))
6. CONFORM TO APPLICABLE LAWS. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
(Code of Iowa, Sec. 123.30(2) & 123.127(2))
- 2.09 CIVIL LIABILITY. Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.
(Code of Iowa, Sec. 123.92)
- 2.10 SEPARATE LOCATIONS. Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.
(Code of Iowa, Sec. 123.140)
- 2.11 INVESTIGATION. Upon receipt of an original application for a liquor license or beer or wine permit by the clerk, it shall be forwarded to any peace officer who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the fire chief to inspect the premises to determine if they conform to the requirements of the city, and no license or permit shall be approved until or unless an approving report has been filed with the council by such officer.
(Code of Iowa, Sec. 123.30)
- 2.12 LICENSE AND PERMIT FEES. The following fees shall be submitted with the respective application:
 1. CLASS "B" BEER. For a class "B" beer license the annual fee shall be:
 - a. For cities with population under 1,500:
 - 1) Without Sunday sales privileges \$100.00

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2) With Sunday sales privileges \$120.00
(Code of Iowa, Sec. 123.134(2&5))

2. CLASS "C" BEER. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:
 - a. Up to one thousand five hundred square feet \$75.00
 - b. Over one thousand five hundred square feet
and up to two thousand square feet \$100.00
 - c. Over two thousand and up to five thousand
square feet \$200.00
 - d. Over five thousand square feet \$300.00
(Code of Iowa, Sec. 123.134(3))
 - e. A Sunday sales permit will increase the fee by 20%.
(Code of Iowa, Sec. 123.134(5))
3. CLASS "A" WINE. For a class "A" wine permit the annual fee is \$750.00.
(Code of Iowa, Sec. 123.179(1))
4. CLASS "B" WINE. For a class "B" wine permit the annual fee is \$500.00.
(Code of Iowa, Sec. 123.179(2))
5. CLASS "A" LIQUOR. For a class "A" liquor control license the annual fee shall be:
 - a. Club, less than 250 members:
without Sunday sales privileges \$400.00
with Sunday sales privileges \$480.00
 - b. Club, which is a post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:
without Sunday sales privileges \$200.00
with Sunday sales privileges \$240.00
(Code of Iowa, Sec. 123.36(2))

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6. CLASS "B" LIQUOR. For a class "B" liquor control license the annual fee shall be:
 - a. Cities of 3,000 or less population \$800.00
 - b. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(3))
7. CLASS "C" LIQUOR. For a class "C" liquor control license the annual fee shall be:
 - a. Cities of 1,500 population or less \$600.00
 - b. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(4,6))
8. CLASS "E" LIQUOR. For a class "E" liquor license, the annual fee is a sum of not less than \$750.00, and not more than \$7,500.00 as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises and the population of the area of the location of the licensed premises.
(Code of Iowa, Sec.123.36(9))
- 2.13 SURCHARGE. There is imposed a surcharge on the fee for each class "A", "B" or "C" liquor license equal to 30% of the scheduled license fee to be collected and deposited as provided in the Code of Iowa.
(Code of Iowa, Sec.123.36(10))
- 2.14 SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law.
(Code of Iowa, Sec. 123.34(1))
- 2.15 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))
- 2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.
(Code of Iowa, Sec. 123.34(1))

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2.17 REFUNDS. Any such licensee or permittee, or his/her executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his/her creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:

1. **BEFORE THREE MONTH PERIOD.** If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
2. **SIX MONTH PERIOD.** If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee.
3. **SIX - NINE MONTH PERIOD.** If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
4. **AFTER NINE MONTH PERIOD.** No refund shall be made, however, for a liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
5. **SUNDAY SALES.** No refund will be given on the Sunday Sales portion of a license or permit fee.
6. **COMPLAINT FILED.** No refund shall be made to any licensee or permittee, upon the surrender of his/her license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him/her with a violation of this chapter or provisions of the Iowa beer and liquor control act.
7. **HEARING ON COMPLAINT.** If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his/her license or permit, to receive a refund as herein provided. But if his/her license or permit is revoked or suspended upon such hearing he/she shall not be eligible for the refund of any portion of his/her license or permit fee.
8. **SEASONAL LICENSES OR PERMITS.** No refund shall be made for seasonal licenses or permits.

(Code of Iowa, Sec. 123.38)

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- 2.18 TRANSFERS. The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of (\$25.00).

(Code of Iowa, Sec. 123.38)

(Editor's Note: Ordinance 577 approved June 16, 2003 amended Section 2.18)

- 2.19 Reserved for Future Use.

- 2.20 PROHIBITED SALES AND ACTS. No person or club holding a liquor license or beer or wine permit nor his/her agents or employees shall do any of the following:

1. INTOXICATED PERSONS. 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. HOURS OF OPERATION Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

(Code of Iowa, Sec. 123.49(2b))

3. CREDIT SALES. Sell alcoholic liquor or beer to any person on credit, except with bona fide credit card. This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests, nor retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49(2c))

4. EMPLOYMENT OF MINORS. Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49(2f))

5. REASONABLE CARE. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

(Code of Iowa, Sec. 123.49(2h))

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6. MIXING OF ALCOHOLIC BEVERAGE. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his/her place of business.
(Code of Iowa, Sec. 123.49(2i))
7. SOLICITING AND DISORDERLY CONDUCT. Knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49(2a))
8. BEER BRAND SIGNS PROHIBITED. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.
(Code of Iowa, Sec. 123.51)
9. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.
(Code of Iowa, Sec. 123.49[2j])
10. 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])
11. 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 that has been reused or adulterated.
(Code of Iowa, Sec. 123.49[2e])
12. 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 that is designed for the transporting of such beverages, except as allowed by State law.
(Code of Iowa, Sec. 123.49[2g])
13. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.
(Code of Iowa, Sec. 123.49[21])

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14. 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.
- 2.21 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the council for any of the following causes:
 - (Code of Iowa, Sec. 123.39)
 1. **MISREPRESENTATION.** Misrepresentation of any material fact in the application for such license or permit.
(Code of Iowa, Sec. 123.39(1))
 2. **VIOLATIONS.** Violations of any of the provisions of the Iowa beer and liquor control act.
(Code of Iowa, Sec. 123.39(2))
 3. **CHANGE IN OWNERSHIP.** Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.
(Code of Iowa, Sec. 123.39(3))
 4. **ORIGINAL DISQUALIFICATIONS.** Any event which would have resulted in disqualification from receiving such license or permit when originally issued.
(Code of Iowa, Sec. 123.39(4))
 5. **SALE OR TRANSFER.** Any sale, hypothecation or transfer of such license or permit.
(Code of Iowa, Sec. 123.39(5))
 6. **PAYMENT OF TAXES.** The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.
(Code of Iowa, Sec. 123.39(6))
 7. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.20 shall, subject to section 2.22, be grounds for the suspension or revocation of the license or permit by the division or the city. For a first time offender of Iowa Code Section 123.49(2)(9), an alternative penalty can be the assessment of a fine in the amount of \$300.00.
(Code of Iowa, Sec. 123.50(2))

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2.22 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under Iowa Code, Section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.
- b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.
- c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.
- d. A fourth violation within three years shall result in revocation of the license or permit.
- e. For purposes of this subsection:
 - (1) The date of any violation shall be used in determining the period between violations.
(Code of Iowa, Sec. 123.50(3e))
 - (2) Suspension shall be limited to the specific license or permit for the premises found in violation.
(Code of Iowa, Sec. 123.50(3e))
 - (3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.
(Code of Iowa, Sec. 123.50(3e))
 - (4) In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.
(Code of Iowa, Sec. 123.50(4))

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2. The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.20, except section 2.20(8) “Brand Alcohol Signs Prohibited”, shall, subject to section 2.22, be grounds for the suspension or revocation of the license or permit by the division or the City. However, if any liquor control licensee is convicted of any violation Code of Iowa, Section 123.49, subsection 2, paragraph "a", "d" or “e”, of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

(Code of Iowa, Sec. 123.50(2))

- 2.23 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

- 2.24 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A city may appeal a decision of the hearing board as provided by statute.

(Code of Iowa, Sec. 123.32(7 & 8))

- 2.25 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be relicensed for one year.

(Code of Iowa, Sec. 123.40)

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2.26 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner:

1. NOTICE. The permit holder, and the surety on his/her bond, shall be served with written notice containing a copy of the complaint against him/her, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
2. HEARING. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his/her authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. RIGHTS OF PERMIT HOLDER. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his/her own behalf, and to cross-examine adverse witnesses.
4. EVIDENCE. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. CRIMINAL CHARGES. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. RECORD AND DETERMINATION. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

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CHAPTER 2: CIGARETTE PERMITS

ARTICLE 3 - GENERAL PROVISIONS

3.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "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. Provided the definition herein shall not be construed to include cigars.
2. "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the State of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.
3. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes irrespective of quantity or amount or the number of sales.
4. "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.
5. "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 pipe or otherwise, or both chewing and smoking, but does not mean cigarettes.

TITLE V

3.02 PERMIT REQUIRED.

1. Cigarette Permits. 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, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

- 3.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3.04 shall be filed with the clerk. Renewal applications shall be filed at least 5 days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and 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 & 453A.47A)

- 3.04 FEES. The fee for issuing or renewing a cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13(3))

| | | |
|----|---|---------|
| 1. | For permits issued or renewed during: (For cities under 15,000 population) | Fee: |
| | July, August, or September | \$75.00 |
| | October, November, or December | \$56.25 |
| | January, February, or March | \$37.50 |
| | April, May, or June | \$18.75 |

- 3.05 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

Upon proper application, approval by Council and payment of the required fee, a permit shall be issued to the applicant. Each permit issued shall clearly describe the place of business for which it is issued.

(Code of Iowa, Sec. 453A.13(2))

TITLE V

- 3.06 DISPLAY. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.

(Code of Iowa, Sec. 453A.13(10))

- 3.07 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his/her place of business, the council, if it decides to issue a new permit to him/her, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

- 3.08 EXPIRATION. Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

- 3.09 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city except during April, May, or June, as follows:

(Code of Iowa, Sec. 453A.13(4))

- | 1. | Permits surrendered during: | Amount of refund: |
|----|--------------------------------------|-------------------|
| | (For cities under 15,000 population) | |

| | |
|--------------------------------|---------|
| July, August, or September | \$56.25 |
| October, November, or December | \$37.50 |
| January, February, or March | \$18.75 |

- 3.10 PERSONS UNDER THE LEGAL AGE. No person shall sell, give or otherwise supply tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes and tobacco products from a vending machine.

(Code of Iowa, Sec. 453A.2 & 453A.36(6))

TITLE V

3.11 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violated the provisions of 3.10 of this Chapter or unlawful acts per Iowa Code 453A.36, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300). 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.
- b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty days. The retailer may select its preference in the penalty to be applied under this paragraph.
- c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty days.
- d. For a fourth violation within a period of three (3) years the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars and the retailer's permit shall be suspended for a period of sixty days.
- e. For a fifth violation within a period of four 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, 453A.22(1))

3.12 RENEWAL AFTER REVOCATION. Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

(Code of Iowa, 453A.22(3))

3.13 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except as provided in Code of Iowa, Section 453A.3(6), 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.

TITLE V

- 3.14 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 Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.
(Code of Iowa, Sec. 453A.22)

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CHAPTER 2: LICENSING

ARTICLE 4 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

Article reserved for future use.

TITLE VI

TITLE VI - BUILDING REGULATIONS

TITLE VI

CHAPTER 1: BUILDING CODE

ARTICLE 1 - GENERAL PROVISIONS

1.01 ENFORCEMENT OFFICER. A designated Enforcement Officer approved by the council is responsible for the enforcement of this chapter. The Council may designate and approve others to assist in the enforcement of this Chapter.

1.02 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])

1.03 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

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such building or portion thereof an attractive nuisance or hazard to the public.

6. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
7. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
8. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
9. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
10. Lack of, or improper operation of required ventilating equipment.
11. Lack of required electrical lighting in halls, stairways, etc., in public buildings.
12. Dampness of habitable rooms.
13. Infestation of insects, vermin, rodents or birds.
14. Lack of connection to required sewage disposal system.
15. Defective or deteriorated flooring or floor supports.
16. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
17. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
18. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
19. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
20. Fireplaces or chimneys which list, bulge, or settle, due to defective material or deterioration.
21. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
22. Hazardous Wiring: All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
23. Hazardous Plumbing: All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

TITLE VI

24. Hazardous Mechanical Equipment: All mechanical equipment including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
25. Faulty Weather Protection:
 1. Deteriorated, crumbling or loose plaster.
 2. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including, but not limited to broken windows or doors, or holes in the exterior walls and roof.
 3. Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved covering.
 4. Broken, rotted, split or buckled exterior walls or roof coverings, or missing siding.
26. Hazardous or Insanitary Premises: Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat and mice harborages, stagnant water, combustible materials and similar materials or conditions constitute undue fire, health or safety hazards.
27. Inadequate Maintenance: Any building or portion thereof which is determined to be an unsafe building in accordance with the provisions of this code.
28. Improper Occupancy: All buildings or portions thereof occupied for living, sleeping, cooking or eating purposes which are not designed or intended to be used for such occupancies.
29. Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartments.
30. Lack of adequate heating facilities in multiple dwellings or rooming homes.
31. Lack of, or improper operation of required ventilating equipment.
32. Whenever any building or structure or portion thereof has broken or missing window(s) or open, missing or broken doors, or hole(s) in an exterior wall(s) or roof becomes an attractive nuisance or hazard to the public because of infestation by insects, birds, rodents, or other vermin or has the potential to harbor insects, birds, rodents, or other vermin.

1.04 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, or other Council designated and approved persons to assist in the enforcement of this Chapter.

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

TITLE VI

1. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipts requested, to each such persons at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved the proceedings and as shown by the records of the County Auditor. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
 2. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service is made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the City.
 3. Hearing. Such notice shall also advise the owner that he/she 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.
- 1.05 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.
- 1.06 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 HOSPERS, IOWA." It is a misdemeanor to occupy this building, or to remove or deface this notice. 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.

TITLE VI

- 1.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. 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. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

- 1.08 COSTS. Costs incurred under Section 1.07 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. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

- 1.09 EMERGENCY ABATEMENT OF DANGEROUS BUILDING. In an emergency a city may perform any action which may be required under this Chapter without prior notice, and assess the costs as provided in this Chapter, after notice to the property owner and hearing.

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

TITLE VI

CHAPTER 1: BUILDING CODE

ARTICLE 2 - PERMIT REQUIREMENTS

2.01 PERMIT REQUIRED. No building or other structure shall be erected, altered, repaired, used or occupied within the city without first receiving a permit therefor.

2.02 APPLICATION. Application shall be made in writing, filed with the building official and contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations, and structural details, as the building official may require.
6. Plot Diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction or, in the case of demolition, of such construction as is to be demolished and of all existing buildings as the building official may require.
7. Side Yard Setback. The plot diagram must also show that the potential building construction has observed the three (3) feet side yard setback from the eave to the side property line on both sides of the lot.

2.03 FEES STRUCTURE.

| | |
|--|----------|
| Construction cost up to \$2,000.00 | \$25.00 |
| Construction cost of \$2,001.00 to \$24, 999.99 | \$35.00 |
| Construction cost of \$25,000.00 to \$49,999.99 | \$100.00 |
| Construction cost of \$50,000.00 to \$149,999.99 | \$150.00 |
| Construction cost over \$150,000.00 | \$200.00 |

No building permit is required for normal maintenance to existing structures such as: shingling, siding, sidewalk replacement, etc.

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Building permits, including site inspection, must be approved by the City Council prior to the start of construction. If construction begins prior to permit approval, a penalty equal to 100% of the permit cost will be assessed.

No applicant for a building permit, a property owner, or his/her agent shall make any alteration to any existing street curb without first obtaining the express written consent of the City Council. Any unauthorized alteration of a street curb by any person shall constitute a simple misdemeanor in violation of this ordinance and shall be punishable by a fine up to the maximum amount allowed by law.

(Editor's Note: Ordinance 592 Approved July 2, 2012 amended Section 2.03)

- 2.04 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or to her record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.
- 2.05 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before the adoption of the City Code of Hospers, Iowa, 1978; provided, however, construction under such permit or approval shall have been started within six (6) months and the ground story framework, including structural parts of the second floor, shall have been completed within two (2) years after the date of adoption of the City Code of Hospers, Iowa, 1978.
- 2.06 APPLICATION APPROVED. It shall be the duty of the building official to examine applications for permits within a reasonable time after filing. If, after examination, he/she finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto he/she shall forward his/her findings to the council for their approval or disapproval.
- 2.07 ACTION BY COUNCIL. After receiving the findings of the building official, the council shall, within a reasonable time, either approve or disapprove the application. If disapproved, the council shall state its reasons for disapproval and notify the applicant of same. If approved, the council shall instruct the building official to issue the building permit to the applicant. Said permit shall be issued in triplicate, one copy for the applicant, one copy for the county assessor and one copy to be retained in the city records.
- 2.08 RESTRICTIONS. No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, repair, use or occupancy shall not cause or be the source of the following:
1. Noise. Any undue noise.
 2. Electrical Interference. Any undue radio or television interference.
 3. Odors. Any offensive odors.

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4. Refuse. Any offensive or unsightly refuse.
 5. Smoke. Any offensive or undue smoke.
 6. Fire Hazard. Any fire hazard.
 7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
 8. Congestion. Any undue gathering, congregating parking of cars, or undue congestion of people or traffic.
 9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.
- 2.09 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.
- 2.10 POSTING OF PERMIT. A copy of the permit shall be kept on the premises open to the public inspection during the prosecution of the work and until the completion of same. The building official may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. The building official shall be given at least twelve (12) hours' notice of the starting of work under a permit.
- 2.11 REVOCATION. The building official may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
- 2.12 PERMIT VOID. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect.

TITLE VI

CHAPTER 1: BUILDING CODE

ARTICLE 3 - PUBLIC BUILDINGS - TOILET FACILITIES

3.01 MINIMUM TOILET FACILITY STANDARD.

1. Places of assembly for public use including but not limited to theaters, auditoriums, and convention halls, constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the Uniform Plumbing Code.
2. Restaurants, pubs and lounges constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the Uniform Plumbing Code.
3. All toilets installed pursuant to this section shall be water efficient toilets which use three (3) gallons or less of water per flush.
(Code of Iowa, Sec. 104B.1)

TITLE VI

CHAPTER 2: FIRE LIMITS

ARTICLE 4 - GENERAL PROVISIONS

- 4.01 FIRE LIMITS ESTABLISHED. The fire limits (Fire Zone No. 1) are established to include the following property:

Al of Block Eight 98) and the South Half (S 1/2) of Block Nine (9) and Twelve (12) and the North Half (N 1/2) of Block Thirteen (13) as shown by Recorded Plat of Hospers, Iowa.

- 4.02 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the fire limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the building inspector or mayor etc., who if the proposal is in accordance with the provisions of the building code, shall issue a permit for the proposed work.

- 4.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the fire limits, unless constructed in strict compliance with the provisions of the city building code for Fire Zone No. 1.

- 4.04 WALLS AND ROOF. The building or structure wall be enclosed on all sides with walls constructed wholly of stone, brick, terra-cotta, hollow building tile, concrete or other fire proof material and the roof, top and sides of all roof structures, including dormer windows and cornices, shall be covered with incombustible material, such as metal, slate, tile, composition shingles or roofing approved by the National Board of Fire Underwriters as Fire Restrictive. Wooden stud walls covered with metal or veneered with brick shall not be constructed as fireproof or in compliance with the provisions of this section.

- 4.05 EXTERIOR AND DIVISION WALLS. All exterior or division walls of buildings hereafter erected, shall be of sufficient thickness to support the load to be carried. All solid brick or reinforced concrete, exterior or division walls, shall be not less than twelve (12) inches thick in the upper two (2) stories or upper thirty (30) feet, increasing four (4) inches in thickness for each two (2) stories or fraction thereof below. Such exterior or division walls, when constructed of other permissible material, such as concrete tile or hollow tile, shall be at least four (4) inches thicker than solid brick or reinforced concrete walls. All exterior or division walls shall extend at least fifteen (15) inches above the roof.

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- 4.06 BEAMS IN WALLS. The ends of all floor, ceiling, or roof beams, entering a party or fire wall from opposite sides, shall be separated by at least four (4) inches of solid masonry. Such separation may be obtained by corbeling the wall, or staggering the beams, but not wall shall be corbeled more than two (2) inches for this purpose. The ends of all wooden beams that enter walls wall be cut to a bevel to make them self-releasing.
- 4.07 ACCESSORY BUILDINGS. The mayor, upon vote of a majority of the council in favor thereof, may issue a permit to build a coal house and other out-buildings of other materials than those specified in this chapter, not exceeding twelve (12) feet in height and one hundred fifty (150) square feet in area, to be placed not less than twenty (20) feet from any other building or erection within the fire limits, and with the use of which no fire is anticipated. To obtain such permit, written application shall be made to the mayor and the council before any work is done, specifying the location, size and contemplated use of the proposed erection, and if a majority of the council vote in favor of granting such permit and the mayor approves of the same, the mayor shall issue a permit in writing.
- 4.08 SPECIAL PERMIT. The council may, by four-fifths vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard, according to the rules of the Iowa Insurance Service Bureau.
- 4.09 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.
- 4.10 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, to the extent of fifty percent (50%) of its value, shall not be repaired or rebuilt but shall be torn down or removed. When the damages are less than fifty percent (50%) of its value, the building shall not be repaired so as to be higher in value than it was before the damages were sustained, except upon approval by four-fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.
- 4.11 REMOVAL OF BUILDINGS. Any person who erects or moves any building in the fire limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the time of the service of such notice, the mayor shall cause the same to be removed or taken down. The mayor shall report an itemized bill of the expense to the clerk, and the same shall be charged to the person owning such building. The clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the clerk, to the county auditor, as a special tax against the property and collected the same as other taxes.

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- 4.12 BOARD OF APPRAISEMENT. In case of a question as to the amount or extent of damage by fire or otherwise to any building, the damage shall be determined by a board of appraisement of three disinterested parties, owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor, and the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decision shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the fire limits about which there is a question shall be repaired or rebuilt until such finding has been filed with the clerk.

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CHAPTER 3: TREES

ARTICLE 5 - GENERAL PROVISIONS

5.01 DEFINITIONS. For use in this chapter, the following term is defined:

1. "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.
2. "Superintendent" means the superintendent of streets or such as may be designated by the council.

5.02 PLANTING RESTRICTIONS

1. **ALIGNMENT.** All trees hereafter 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 the parking if it is less than nine (9) feet in width.
3. **PROHIBITED TREES.** No person shall hereinafter plant in any street, any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, chinese elm or evergreens.

5.03 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.

(Code of Iowa, Sec. 364.12(2c))

5.04 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him/her to do so within five days (5) days. If he/she fails to trim the trees within that time, the city may be perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12(2d & e))

5.05 TRIMMING TREES TO BE SUPERVISED. It shall be 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.

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- 5.06 REMOVAL OF TREES. The superintendent shall remove, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He/she shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, Sec. 364.12(2c) & 372.13 (4))

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CHAPTER 3: TREES

ARTICLE 6 - DISEASE & DEAD TREE CONTROL

- 6.01 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease, or is a danger to other trees. If the City upon inspection or examination, in person or by some qualified person acting for the City, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises, then the city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within thirty (30) days. Notice shall either be given by personal service or by certified mail to the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax. Code of Iowa, Chapter 364.12(3)(h) allows the City in an emergency to perform any action which may be required to abate the emergency without prior notice, and assess the costs as provided in Chapter 364.12, after notice to the property owner and hearing.
- 6.02 DUTY TO REMOVE. No person, firm or corporation shall permit any diseased tree, dead wood, or fallen branches or portions on the premises owned, controlled or occupied by the person within the City. Branches or portions of trees fallen from a tree located on private property which fall on public property shall be removed by the owner of the private property on which the source tree is located and at the owner's cost.
- 6.03 INSPECTION. The City shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Section 6.01 of this Article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to constitute a public nuisance, a hazard to person or property, or harbors insects, other pests, or disease.
- 6.04 REMOVAL FROM CITY PROPERTY. If the City, upon inspection or examination, in person or by some qualified person acting for the City, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property within the City, and that the danger of other trees, shrubs, bushes, or woody vegetation within the City is imminent, the City shall immediately cause the tree, shrub, bush or woody vegetation to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease, or insect pests, or vectors known to carry such disease, insects, and/or fungus.

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6.05 REASONABLE CERTAINTY. If the City is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected, diseased, or harboring insects or pests, a City representative is authorized to remove or cut specimens from said tree and obtain a diagnosis of such specimens.

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CHAPTER 4: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 7 - ABANDONED VEHICLES

7.01 DEFINITIONS. For use in this article the following terms are defined:

1. "Abandoned Vehicle" shall mean any of the following:
(Code of Iowa, Sec. 321.89(1b))
 - 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 motor 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 thirty (30) days. However, a police authority may declare the vehicle abandoned within the ten-day period commencing the notification process.
 - e. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - f. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
(Code of Iowa, Sec. 321.89(1b))
3. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.
(Code of Iowa, Sec. 321.89(1c))

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- 7.02 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 an abandoned on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.
(Code of Iowa, Sec. 321.89(2))

- 7.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it 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 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 the disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaim period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (10) day reclaiming period.
(Code of Iowa, Sec. 321.89(3a))

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- 7.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 7.03. 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 mail notice in section 7.03.
(Code of Iowa, Sec. 321.89(3b))
- 7.05 EXTENSION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtaining an additional five (5) days within which the motor vehicle or personal property may be reclaimed
(Code of Iowa, Sec. 321.89(3c))
- 7.06 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay five (\$5) dollars if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the city, or upon payment of the towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages shall be established by resolution of the council.
(Code of Iowa, Sec. 321.89(3a))
- 7.07 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 or a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders a vehicle totally inoperable. The police authority shall give the applicant a certificate of authority in lieu of the certificate of title.
(Code of Iowa, Sec. 321.90(2e))
- 7.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of the 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 lien holder 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 the Department of Transportation.
(Code of Iowa, Sec. 321.89(4))
- 7.09 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 a motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.
(Code of Iowa, Sec. 321.90(3a))

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CHAPTER 4: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 8 - JUNKED VEHICLES AND MACHINERY

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

1. “Enclosed Structure”. Means any structure or portion thereof built for the enclosure of property, containing a roof and having exterior walls of the structure or portion thereof constructed in such a manner as to obscure from any street or adjacent property any contents thereof and being of a permanent nature.
2. “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, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; storing or permitting the open storage of used or unused or discarded building materials such as windows, doors, siding, shingles or other building materials for a period of thirty (30) or more days; noncurrent registered boat, pontoon, canoe, jet ski, or similar watercraft or with no current registration stickers attached to the same. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.
3. “Junk vehicle” means any vehicle, trailer, or semitrailer or piece of machinery stored within the corporate limits of Hospers, Iowa, unlicensed for the current year as required by any law, or legally placed in storage with the County Treasurer, or which because of any one of the following characteristics, constitutes a threat to the public health, welfare and/or safety:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or taillight, or any other cracked or broken glass.
 - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel, muffler, 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, rodents, animals or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any vehicle not in safe and current operating condition or road ready for use on any roadways. Any motor vehicle which lacks an engine or transmission, or one or more wheels or other structural parts, or having one or more flat tires, rendering said motor vehicle totally inoperable for safe use on public roadways, or which cannot be moved under its own power (incapable of both forward and reverse movement in the manner in which it was designed), or has not been used as an operating vehicle for a period of thirty (30) days or more.

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- F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
 - G. Uninsured. Any vehicle not insured and not having proof of financial liability coverage card as required under Section 321.20(B) (or any subsequently adopted replacement provision) of the Code of Iowa.
 - H. Parked Vehicles. Any vehicle, trailer, and or machinery parked on any private or public property for an extended period of time, which allows weeds or grass to partially cover it or grow up around it.
- 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, atv, utv, boat or utility trailer, semi-trailer, camper, camper trailer, motorhome, or any combination thereof.
 - 5. "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
 - 6. "Store" means an inoperable vehicle, trailer, semitrailer, or junk left upon private property for thirty (30) days or more.
 - 7. "Trailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
 - 8. "Unlicensed vehicle" means any vehicle which is required to be licensed if it is operated on a public street or highway, but which is not displaying a valid and current license plates and registration sticker to the rear plate on the vehicle as required by law for use on public roads.

Mere licensing or placing vehicle in storage with the County Treasurer of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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

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8.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 8.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

8.04 JUNK VEHICLE EXCEPTIONS. The provisions of this chapter do not apply to junk vehicles stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.
3. Held for storage or sale upon property, not in a restricted residence district, owned or controlled by a licensed motor vehicle dealer, body shop, repair shop, or vehicle towing company regularly engaged in commercial sales, repair, transportation or storage of vehicles. Grass, weeds, vegetation shall not be allowed to partially cover or grow up around a vehicle, machinery, or junk items. The property shall not be in a condition or create a habitat which may attract or harbor rats, mice, snakes, or any other vermin, rodents, animals or insects. Storage of vehicles and the premises itself shall be maintained in an orderly and neat condition and safe to the public.
4. Held for storage, sale or disposition by a governmental agency.

8.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 8.03, the City may within five (5) days initiate abatement procedures as outlined in Title III, Article 9 Nuisance Abatement Procedures of this Code of Ordinances.

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

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CHAPTER 5: FIRE PREVENTION CODE AND FIRE FIGHTING

ARTICLE 9 - GENERAL PROVISIONS

- 9.01 PURPOSE. This chapter is adopted to provide the city with the rules, administration, and enforcement powers to protect persons and property against the dangers of fire or explosion by measures to enhance prevention of such occurrences and to maintain buildings in a safe condition by the proper and safe storage of materials, the preservation of adequate exits clear of obstruction, use of safe practices in furnishing buildings for the public safety and welfare of the citizens of the city.
- 9.02 ENFORCEMENT; FIRE MARSHAL. The chief of the fire department shall be the city fire marshal, who has the power and duty to conduct inspections and issue orders to enforce fire safety and the regulations adopted by this chapter, either by him/herself or through a designated deputy, named by the chief from among the membership of the volunteer fire department, who is trained in firemanship and knowledgeable of fire prevention measures. The fire chief has concurrent jurisdiction to enforce the state fire marshal's rules adopted in this chapter to enhance the public effort to prevent fires and explosions.
- 9.03 EXIT WAYS MAINTAINED. The provisions of state law on exits shall be reinforced by the city fire marshal, and it shall be the duty of the owner, agent or occupier of property, severally and collectively, to maintain the exits required by state law or by any city building code free from obstruction caused by storage of materials, placement of furniture, or by improper barring of exit doors. Whenever a condition which obstructs the required exits or unsafely prevents emergency use of exit doors, hallways, or passages to such doors, whether in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, retail stores, warehouses, hotels, motels, or multi-family dwellings with three or more dwelling units, the fire marshal shall order the condition remedied. The owner or occupant of the premises, upon receiving such an order in writing, shall make such corrections as have been so ordered by the authorized official within a reasonable time as set in the written order and the degree of imminent danger. The regulations of the state fire marshal, IAC 661, Chapter 5, which apply to exits and fire escapes, are adopted by reference.
- 9.04 FIRE EXTINGUISHER. The provisions of state law requiring fire extinguisher in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, hotels, motels, or multi-family dwellings with three or more dwelling units are adopted by reference and the city fire marshal shall enforce their requirements as they appear in IAC 661, Chapter 5. Portable fire extinguisher shall also be provided in retail stores, warehouses, and industrial establishments, with not less than one (1) such extinguisher on each floor of a building and located so that no person will have to travel more than seventy-five (75) feet from any point to reach the nearest extinguisher. Additional extinguisher may be installed in a building and may be required by the city fire marshal in areas that constitute a special hazard. The type and size of portable fire extinguisher shall be determined by the city fire marshal for the named commercial and

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industrial buildings in accordance with best practice as advised by the state fire marshal and the insurance industry.

9.05 STORAGE OF HAZARDOUS SUBSTANCES.

1. **EXPLOSIVES.** No person shall store explosives, as defined by state law and rules promulgated thereunder, classified as Class A, Class B, or Class C explosives by the Federal Department of Transportation, within the fire limits without a permit from the city fire marshal except for quantities of twenty-five (25) pounds or less of smokeless powder or five (5) pounds or less of black powder for use in small arms, but a permit shall not be required for retail stocks of small arms ammunition for small bore rifles or shotguns customarily used in wild game hunting, or for target practice or skeet shooting. The city fire marshal shall have the power to limit the quantities of other explosives for which a permit is requested, but shall not grant permits for liquid nitroglycerin, dynamite with over 60% of liquid explosive ingredient, unstable types of dynamite, nitrocellulose, fulminate of mercury, explosive compositions that ignite spontaneously or markedly decompose to become more hazardous when subjected to 48 consecutive hours at a temperature of 167 degrees F.
2. **FLAMMABLE AND COMBUSTIBLE LIQUIDS.** The regulations for the storage and handling of flammable and combustible liquids as set forth in IAC 661, sections 5.300 et seq. are adopted by reference and shall be enforced by the city fire marshal. No flammable or combustible liquid shall be dispensed from underground tanks in residential areas except in public garages or motor fuel (service) stations which exist as legally nonconforming uses under the zoning chapter.
3. **LIQUEFIED PETROLEUM GASES.** The regulations for the storage and handling of liquefied petroleum gases as set forth in IAC 661, section 5.250 and 5.251 are adopted by reference and shall be enforced by the city fire marshal, and no installation exceeding 900-pound capacity shall be made without a city permit, conditioned on compliance with said state rules, issued by the city fire marshal.

9.06 OPEN BURNING. The following shall apply to open burning:

1. **DEFINITIONS.**
 - a. **Back yard Burning.** The burning of rubbish originating on the premises by individuals domiciled on the premises.
 - b. **Open Burning.** Any burning of combustible materials where in the products of combustion are emitted into the open air without passing through a chimney or stack.
 - c. **Refuse.** Garbage, rubbish, and all other putrescible and nonputrescible wastes, except sewage and water-carried trade wastes.

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- d. Rubbish. All waste materials of nonputrescible nature.
- e. Trade Waste. All solid or liquid material or rubbish resulting from building operations, construction, or the conduct of any business, industry or trade, including but not limited to, chemicals, cinders, grease, paint, plastic products, and other forms of liquid and solid waste materials.

2. REGULATIONS.

- a. No person shall allow, cause, or permit open burning of refuse, including trade wastes, nor shall he/she conduct a salvage operation by open burning, except where a variance has been granted by the air pollution control authority of the State of Iowa.
- b. No person shall burn garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter, as provided hereafter. Equipment or facilities for enclosed burning of refuse shall have a stack adequate to maintain a draft sufficient for efficient combustion, and the stack shall have a screen sufficiently fine to prevent ejection of particles of burning material. Such installations shall not be installed until approved by the city fire marshal. Such equipment and facilities shall be maintained and operated so that no objectionable smoke or odor shall result, in accordance with state law and rules on particulate and smoke density.
- c. Back yard burning, not including garbage, at dwellings of four (4) family units or less is permitted and, unless otherwise provided by ordinance or regulation, fires for the open burning of plant material grown on the premises or deposited thereon by the elements shall be permitted.
- d. No person shall kindle or maintain any premise fire or authorize any such fire to be kindled or maintained on any private land unless (1) the location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire is contained in an approved waste burner located safely not less than 15 feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
- e. The city fire marshal is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

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- 9.07 MODIFICATIONS. The chief of the fire department shall have power to modify any of the provisions of this fire prevention chapter upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department. One signed copy of the decision of the chief of the fire department shall be furnished the applicant, and one signed copy shall be filed in the office of the city clerk.
- 9.08 APPEALS. Whenever the chief of the fire department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning hereof have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council within 30 days from the date of such decision.
- 9.09 PENALTIES. Any person who violates any of the provisions of this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions in the same manner as provided for in the chapter on nuisances.
- 9.10 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his/her duty at, or going to, or returning from a fire, or while attending to his/her duties as a member of the fire department.
- 9.11 DAMAGING FIRE DEPARTMENT PROPERTY. It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.
- 9.12 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.
- 9.13 DRIVING OVER FIRE HOSE. It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any fire department official.

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- 9.14 ASSISTING FIREMEN. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in his/her place.
- 9.15 PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person having charge of any of the fire apparatus belonging to the city to allow or permit the same to be used for private benefit.

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CHAPTER 6: RESTRICTED RESIDENCE DISTRICT

ARTICLE 10 - GENERAL PROVISIONS

10.01 SHORT TITLE. This ordinance shall be shown and may be cited as "Restricted Residence District Ordinance."

10.02 PURPOSE. The purpose of this ordinance is to provide adequate light and air; to prevent the overcrowding of land and structures; to regulate the use of land; and to promote the health, safety, morals and general welfare of the City.

10.03 DEFINITIONS. For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

- a. Words used in the present tense may include the future and past tense.
- b. The singular includes the plural.
- c. The word "person" includes but is not limited to a corporation, partnership, company, firm, or association, as well as an individual.
- d. The word "lot" includes the word "plat" or "parcel".
- e. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- f. The word "shall" is always mandatory.
- g. The word "structure" means a combination of materials to form a construction that is safe and stable and includes, but is not limited to, houses, apartment buildings, commercial buildings, industrial buildings, stadiums, platforms, storage buildings, garages, radio/television/communication towers, storage bins, and additions and alterations thereto.
- h. A "dwelling unit" is a building or portion thereof designed or used exclusively for residential occupancy, but not including house trailers, mobile homes, hotels, or motels.
- i. A "dwelling-single-family" building is a structure designed for and occupied exclusively by one family.
- j. A "dwelling-two-family" is a building comprised of two apartments each, designed for occupancy as a separate dwelling and housekeeping unit.
- k. The word "family" means one or more persons occupying a single dwelling unit, provided that unless all members are related as direct lineal descendants and direct lineal forebear by blood, marriage, or adoption, no such

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family shall contain over three persons.

- l. "School" is a building used for educational purposes, public or private, that is regulated by the state department of public instruction.
- m. "Garage" is a structure for sheltering motor vehicles or household equipment and effects.
- n. "Residential accessory use" is a building or structure customarily used in conjunction with a dwelling, namely a garage with a capacity of not more than three cars or more than one garage per apartment building nor more than two stalls per dwelling unit, a tool or "summer" house not exceeding 100 square feet in floor area, or a private swimming pool properly fenced and screened. Any other building or use on residential property shall not be deemed a residential accessory use if not incidental to the primary residential purpose, nor if it is used in conjunction with or for business purposes.
- o. "Church" or "church school" is a building used for public worship, or connected with a building so used, for instruction in religious beliefs, or for the conduct of activities related to church affairs. Such buildings and the organizations owning or operating the church structures must both be tax exempt.

10.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into the following types of districts:

- a. Restricted residence districts, meaning one, and two-family residential districts.
- b. Non-restricted residence districts which may include residences, main street retail, and other commercial uses.

10.05 RESTRICTED RESIDENCE DISTRICT ESTABLISHED. The following area is hereby defined as a restricted residence district:

All that area lying within the corporate limits of the city except the following described area:

(Code of Iowa, Sec. 414.24)

Lot 1 in Plat of Area in S 1/2 Section #3095-43

Area East of Highway 60 between Cedar and Birch Streets First Addition

All of Block 1 First Addition

All of Block 2 Original Town

All of Block 3 Original Town

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All of Block 4 Original Town

Lots 1 2 3 4 5 6 7 14 15 16 17 18 19 20 21 22 23 24 25 of Block 8 Original Town

Lots 6 7 8 9 10 11 12 13 12 15 of Block 9 Original Town

Lots 1 2 3 4 5 of Block 13 Original Town

Lots 1 2 Sunset Acres Addition

Tract between Highway 60 and Sunset Acres First Addition beginning 150 ft. north of the north line of Pine Street to corporation line.

Sunrise First Addition, Lots 1 and 2.

Sunrise Second Addition, Lots 9, 10, 11, and 12.

- 10.06 USES IN RESTRICTED DISTRICTS. Any structures as described herein shall be used strictly by and resided strictly by single families as described above, and it is specifically prohibited that more than one family reside in any one dwelling unit. Other permitted uses are churches, places of worship, public and private schools, public libraries, parks, and playgrounds, and swimming pools, along with other customary residential accessory uses, providing such uses are incidental to the principal residential use. Other allowed uses include a beauty shop, conducted solely by the occupant and one person not resident on the property; music or art teacher, a rooming or boarding house with no more than two guests; daycare service for a maximum of children; and for which uses no external or internal alterations of the structure are made and no more than one sign indicating said occupation shall be displayed (but the sign may be double faced) nor shall the sign have a single face area of over two (2) square foot.
- 10.07 RULES AND REGULATIONS: As permitted under Section 414.24, The Code of Iowa, there are hereby adopted the following rules and regulations for the erection, reconstruction, altering, and repairing of structures of all kinds within restricted residence districts established by this Ordinance for the use and occupancy of such buildings, and for the granting of permits to erect, reconstruct, alter, repair or use any structure other than as a residence, residential accessory use, school, church, or church school within said districts.
- 10.08 SET BACK. No residential building or addition or residential accessory use building or addition shall be erected hereafter on a lot closer to the street property line on which it fronts than the set back of the nearest adjacent existing building except that no new construction shall be made closer than twenty (20) feet, nor shall any construction be required to be built with its front further than twenty-five (25) feet from said front line. No residence or other building exempted from permit shall be located in the restricted district closer than twenty (20) feet from the rear lot lines, and no closer

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than three (3) feet to the side lot lines, and no accessory building closer than three (3) feet to said side lot lines. However, any residence, other building, or accessory building currently located closer than three (3) feet to the side lot lines, may be extended or altered in conformance with its existing side lot set back lines. Any other building granted a permit by council shall be placed at least as far from the side lot lines as the residential, school, and church related buildings. All setbacks shall be measured from the roof overhang, not the foundation or foundation footings.

10.09 Section is Reserved for Future Use.

10.10 BUILDINGS AND USES REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, industrial buildings and structures and other business related structures may be authorized by special permit to locate within the restricted residential district only if it appears that the use and the type of building will be compatible with the residential character of the district, and if the particular use could not practicably be built in an unrestricted area, or if the restricted district boundaries cannot be amended logically, considering topography, access to railroad or highway or other proper reason acceptable to the council. Further, the construction and/or placement and use of a building or structure that would otherwise be violative of Sections 10.08 and 10.09 may be authorized by special permit if it appears that such deviation from the lot size and/or set back requirements of that section would alleviate a substantial hardship for the permit applicant, be compatible with the character of the neighborhood and not create a substantial hardship for neighboring property owners. The foregoing provisions apply to alterations and uses of existing structures located in restricted residence districts.

10.11 SPECIAL PERMITS. A written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for the occupancy and use of all buildings within the restricted residential district of the City except for buildings for residences, residential accessory use, schools, churches, and church schools. Further, a written special permit shall be required to authorize the construction and/or placement of any building or structure contrary to the requirements of Sections 8 and 9. Any such permit shall be applied for in writing, accompanied by plans, specifications, and use descriptions sufficient to determine compliance with applicable ordinances of the city and/or the extent to which proposed construction and use deviates from the requirements of Sections 10.06, 10.08, and 10.10. Said written application shall be made to the City Clerk at least ten (10) days before the council meeting at which council action is taken. No permit shall or will be granted until notice of the application has been posted at least ten (10) days prior to the meeting at which final action is taken to grant or deny the permit.

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- 10.12 NOTICE OF APPLICATION FOR SPECIAL PERMIT. The person making the application for a permit shall give notice to owners of property within the restricted residence district affected by the proposed permit, at least ten (10) days prior to hearing of the application. Said notice shall be given either by posting in three conspicuous locations of general public gathering, one of which to be the post office in the City and by giving written notice to all owners of property located within 300 feet of the applicant's real estate.

The notice shall state generally the proposed use, shall state generally the repair, alteration or erection, shall state specifically the location of the property, shall state the date, time and place of the hearing, and shall state in clear and conspicuous terms that those persons affected may file written objections to the issuance of the permit with the city council prior to hearing.

- 10.13 HEARING ON APPLICATION. The city council shall act upon all permit applications on the first scheduled regular city council meeting subsequent to the expiration of ten (10) days following receipt of the application.

- 10.14 ISSUANCE OF PERMITS. The city council may issue a permit for a use, erection, alteration or repair not specified in 10.10 of this Article on applications meeting and complying with prescribed conditions, for the following uses:

- a. Greenhouses and customary agricultural operations not otherwise prohibited.
- b. Small home occupations, provided there shall be no signs or evidence of such use other than a small announcement or professional sign not over two (2) square feet in size.
- c. Small businesses, provided said business does not materially affect traffic, noise, congestion or provision of city services, and does not involve manufactured fuels, flammable compounds, noisome odors, or operation inconsistent with the residential character of the area, and provided there shall be no signs of such use other than a small announcement or professional sign not over two (2) square foot in size.
- d. Any non-residential use consistent and not conflicting with the general residential character of the area, which does not pose a risk to the health, safety or general welfare of the community.
- e. Other customary accessory uses, buildings and structures providing such uses are incidental to the principal use.

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- 10.15 IMPOSITION OF CONDITIONS. The city council may impose such restrictions and conditions upon the erection, alteration, repair or use of a structure or building on any permit as are reasonable for maintaining the residential character of the district and will reasonably promote the health, safety and general welfare of the community including, but not limited to:
- a. Requiring minimum lot size to prevent overcrowding.
 - b. Requiring a minimum distance from another use by permit to prevent concentration of such uses and increased traffic.
 - c. Requiring the use of fences or sight barriers to maintain safety and consistency with character of the district.
 - d. Require reasonable architectural, landscaping, or construction modifications to maintain the character of the district.
 - e. Any reasonable terms, conditions or restrictions which reasonably promote the health, safety and general welfare of the community.
- 10.16 PROTEST. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within three hundred (300) feet of the proposed building and occupancy object thereto, except by a four-fifths (4/5th) vote of all the members of the council.
- 10.17 FEES. Fees may be set by resolution of the City Council.
- 10.18 NON-CONFORMING USES. Any use of property upon the effective date of the Royal Municipal Code which is inconsistent with the provisions of this Chapter shall constitute a non-conforming use. All such existing non-conforming uses may continue after the effective date of this ordinance only under the following conditions:
- a. Any non-conforming use which is discontinued for a continuous period of thirty (30) days or more shall be permanently discontinued and thereafter such land and buildings shall be used only in conformance with the provisions of this Chapter.
 - b. In the event a building which constitutes a non-conforming use is damaged to the extent of 50% of its value, the land upon which the building is situated and the building, as repaired or replaced, shall be used only in conformance with the provisions of this chapter.
- 10.19 AMENDING RESTRICTED RESIDENCE DISTRICT. Amendments, supplements or changes to this ordinance in the boundaries of restricted residence districts shall be made by an ordinance. The amending ordinance shall refer to the restricted residence district and shall set out the identification of the area affected by legal description and identify the district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication be recorded by the City Clerk as are other

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ordinances.

- 10.20 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter the clerk shall certify such amendment to the county recorder.
- 10.21 ABATEMENT OF VIOLATION. Any building or structure erected, altered, repaired, used or occupied in violation of this chapter shall be determined a nuisance and the same may be abated by the city or by any property owner within said district in the manner provided for the abatement of nuisances.
- 10.22 LIMITATION. Nothing in this ordinance shall be construed or interpreted to be in lieu of or in substitution for any other permit, license or approval required by law. The permit requirements in this ordinance are in addition to all others required by law.
- 10.23 PENALTY. Any person violating any of the provisions of this ordinance shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five (\$625.00). Any building, structure, use, repair, alteration or erection in violation of this ordinance shall be deemed a nuisance (and subject to abatement). Any person violating this ordinance may also be subject to the filing of a municipal infraction citation with incident fines and penalties thereto.
- 10.24 LOCATION OF FENCES. Fences may be located directly on the property line; however, it is the responsibility of the property owners to maintain both sides of the fence. The good side of the fence shall face outwards.

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CHAPTER 7: RESIDENTIAL STRUCTURES

ARTICLE 11 - MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES

11.01 MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES. All structures intended for residential occupancy placed, erected, assembled or constructed in the City after the effective date of this Chapter shall meet and comply with the following minimum requirements.

11.02 STRUCTURE SIZE: Each such structure shall have a "main body" with a minimum exterior dimension of twenty-two feet (22') measured from outside of the exterior walls.

11.03 MINIMUM FLOOR AREA: Each such structure shall have a minimum floor area of not less than eight hundred (800) square feet. [In order to comply with the provisions of the foregoing section 11.02 and this subsection 11.03, the minimum exterior dimensions of a residential structure shall not be less than sixteen feet by fifty feet (22' x 36.5')]. A structure may include porches, sunrooms, garages and "wings" of lesser dimensions and area, so long as the "main body" meets the minimum requirements.

11.04 FOUNDATION: All residential structures shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the manufactured home structure. For such a manufactured home, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site.

Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line. The structure must be permanently attached to the foundation.

11.05 EXTERIOR WALL AND ROOF MATERIAL:

1. Exterior wall covering shall be wood or masonry finish, vertical or horizontal grooved siding or lap siding, or the appearance thereof.
2. Roofing material shall be shingles (asphalt, fiberglass or wood), slate, ceramic, or metal of a type customarily used for residential roofing material, such as "standing seam" or embossed or textured metal.
3. Smooth, unfinished or corrugated metal or fiberglass shall not be used for exterior wall or roof covering.
4. Soffit, eaves, window and door trim (not exceeding 18 inches in width), roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl or wood or unfinished metal, such as copper, customarily used for residential structure trim.

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- 11.06 CEILING HEIGHT: A minimum finished ceiling height of not less than seven and one-half (7 1/2) feet.
- 11.07 ENTRANCE AND EXIT DOORS: Not less than two (2) functional entrance and exit doors.
- 11.08 WHEELS, AXLES OR TOWING DEVICE. No residence structure shall have attached wheels, axles or a towing device.
- 11.09 EXEMPTION. The provisions of this Article 11 shall not apply to "mobile" or "manufactured" homes placed in a mobile home park or a mobile home subdivision in compliance with the zoning or subdivision ordinances of the City of Hospers.
- 11.10 RECREATIONAL VEHICLE: A vehicle or structure so designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation, or trade. A recreational vehicle may be towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for occupancy, recreational or sporting purposes. Recreational vehicles shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, mobile homes, motor coach homes, converted trucks and buses, and boats and boat trailers. Such a vehicle shall be used for vacation or recreation purposes and not used as a place of human habitation for more than seven (7) days in any three (3) month period, unless in the City's operated campground(s) where other ordinances, rules and regulations may govern the use these properties. Such vehicles for purposes of permanent habitation shall not be allowed anywhere in the City.
- 11.11 TENTS. Recreational overnight tent camping, not for a fee or other payment, in privately owned yards, lots, or other tract of land within the City of Hospers is limited to a maximum of two tents. Tents shall be used for vacation or recreation purposes and not used as a place of human habitation for more than seven (7) days in any three (3) month period. Tent camping for purposes of permanent human habitation shall not be allowed.
- 11.12 EXTENDING HABITATION IN RECREATIONAL AND TENTS. The City Council by resolution may extend the seven (7) days in any three (3) month period human habitation limits imposed on recreational vehicles and tents as enumerated in sections 11.10 and 11.11 of this Article for extenuating circumstances. Extenuating circumstances may be, but not limited to the constructing of a new home, or the repair and rehabilitation of an existing dwelling in the City; whereby the person or persons of a dwelling unit in the City cannot inhabit it for a period of time until construction, repairs or rehabilitation is completed.

TITLE VI

APPENDIX A - FRANCHISES

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CHAPTER 1: FRANCHISES

ARTICLE 1 - GAS FRANCHISE

- 1.01 NONEXCLUSIVE FRANCHISE GRANTED. A non-exclusive franchise is hereby granted unto Mid-American Energy, a corporation, its successors and assigns, (herein "grantee"), for a term of twenty-five (25) years commencing with the date this ordinance becomes effective, to acquire, erect, maintain and operate a gas plant or plants, gas transmission, storage, and distribution systems and related equipment and appurtenances, used or to be used in the production, storage, transmission or distribution of natural gas, manufactured gas, liquefied petroleum gas, or other hydrocarbon gases, or any mixture of gases, (herein "gas utilities") within the present and subsequent corporate limits of the city, and grantee is hereby granted the right, franchise and authority to construct, install and maintain such gas utilities over, across and under the streets, alleys, and public grounds of the city, and any private lands therein and to furnish, supply, and distribute gas to the city and its inhabitants and others within and without the corporate limits for any and all lawful purposes, including public and private use, and upon such terms, conditions, restrictions and regulations as are adopted in this ordinance.
- 1.02 EXCAVATION. If grantee, in the installation, erection, maintenance or operation of its gas utilities, shall cut into or take up any pavement or sidewalk or make any excavation in any street, alley, or public grounds within the corporate limits of the city, the same shall be done as near as may be in a manner resulting in minimum interference with the public use or such street, alley or public grounds. Upon completion of such work, grantee shall replace any pavement or sidewalk removed and shall restore the premises to as good as at commencement of the work.
- 1.03 AUTHORITY OF CITY. This ordinance shall apply to grantee, and its successors and assigns. Grantee shall be subject to all legal right, power and authority now or hereafter possessed by the city, to control and direct by ordinance or resolution the franchise herein granted and the manner in which the grantee shall use and enjoy it.
- 1.04 EMINENT DOMAIN. Grantee shall have the power to appropriate and condemn private property for the purpose of providing gas service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting or distributing gas service. The question of necessity for the taking of any private property by the grantee by use of the right of eminent and condemnation shall be determined by the city council by resolution.
- 1.05 RELOCATION OF APPURTENANCES. If the city shall propose to improve or make a public improvement in any street, alley or public way, (herein "public improvement") in a manner that may conflict with existing gas utilities, the contractor awarded the public improvement contract shall ascertain the exact number, location and depth of gas utilities and at all times protect gas utilities from damage during the performance of the contract. The grantee shall, upon resolution of the city council, temporarily relay, relocate, or guard barriers, gas utilities that are deemed in conflict with the public improvement, at its own

APPENDIX A - FRANCHISES

expense, at a time that will not cause unreasonable inconvenience to the/she grantee or its customers.

- 1.06 DAMAGE TO SYSTEM. IF any party shall damage any part of the gas utilities, or shall cause any weakening of the structural or lateral support thereof, such party shall immediately notify grantee of the location, time of the occurrence, and nature of the damage. IF the damage causes or contributes to uncontrolled venting of gas, such party shall give warnings and use safeguards as may be necessary to prevent injury to persons and property in the vicinity of such venting gas, including evacuation of buildings, shall immediately notify the city as well as grantee, and shall maintain reasonable warnings and safeguards until all damage has been repaired.
- 1.07 INDEMNIFICATION OF CITY. Grantee shall hold the city harmless from liability and damages resulting from negligence of grantee in the construction, operation or maintenance of the gas utilities.
- 1.08 REPEALER. Ordinance No. 510, is hereby repealed, such repeal to be effective as of the effective date of this ordinance.
- 1.09 EFFECTIVE. This ordinance shall take effect and be in full force and effect from and after its written acceptance by the grantee filed with the city clerk, but not sooner than fourteen (14) days after its approval by a majority of the legal electors of the city voting thereon.

EDITOR'S NOTE

Ordinance No. 572 was adopted by the City Council on May 29, 2002 granting additional 25-year franchise.

APPENDIX A - FRANCHISES

CHAPTER 1: FRANCHISES

ARTICLE 2 - TELEPHONE FRANCHISE

- 2.01 FRANCHISE GRANTED. The Premier Communications, its successors and assigns, are hereby granted the right to use and occupy the streets, alleys and other public places of the town of Hospers, Iowa for a term of twenty-five (25) years from the effective date hereof, for the purpose of constructing, maintaining and operating a general telephone and telegraph system within said town.
- 2.02 MOVING BUILDINGS AND MACHINERY. That whenever it shall be necessary for any person to move along or across any of the streets or alleys of Hospers, Iowa, any vehicle or structure of any height or size as to interfere with any poles or wires erected hereunder, the said Premier Communications upon receiving twenty-four (24) hours' notice served in writing upon its agent or manager at Hospers, Iowa, and upon receiving payment of the actual cost of so doing, shall temporarily remove its poles and wires from such place as must necessarily be crossed by such vehicle or structure; provided, however, that this section shall not be constructed to apply to circus or parades upon the public streets or alleys of town of Hospers, Iowa.
- 2.03 USE BY CITY. That the Premier Communications shall furnish said town, without charge, one telephone station, to be installed and maintained at such place within the base are of said company's Premier Communications as may be designated by the town council, from time to time.
- 2.04 LOCATION OF EQUIPMENT. That the company shall locate its lines upon such streets and alleys as the street and alley committee of said town, in the reasonable exercises of its owners, may direct, and the rights herein granted are subject to the exercise of the police power as the same is or may be conferred upon said town. That said company shall also locate such underground installations over, under, upon and through the streets, and/or alleys of the town of Hospers, Iowa, at such places as may be agreeable by the street and alley committee of said town and the reasonable exercise of its powers and the rights herein granted are subject to the exercise of the police powers as the same is or may be conferred upon said town.
- 2.05 GRANTEE TO PAY COSTS. That the Premier Communications, shall, upon demand, pay the cost of publishing this ordinance and of holding the election hereinafter referred to.
- 2.06 EFFECTIVE. That is ordinance shall be in full force and effect and shall constitute a binding contract between the Town of Hospers, Iowa, and the Premier Communications, when the said town, voting therein, and when the provisions thereof have been accepted in writing by the Premier Communications and such acceptance filed with the town clerk.

EDITOR'S NOTE

Ordinance No. 568 was adopted by the city council on October 1, 2018. The voters approved the franchise at an election held November 2, 1971.

APPENDIX A - FRANCHISES

CHAPTER 1: FRANCHISES

ARTICLE 3 - CATV FRANCHISE

ORDINANCE NO. 607

VIDEO FRANCHISE ORDINANCE

THIS ORDINANCE grants PREMIER COMMUNICATIONS, its successors and assigns (the "Company"), the right, license and authority for a period of ten (10) years, to locate and operate a video system (the "System") within the public rights of way and compatible easements of the CITY OF HOSPERS, IOWA (the "City").

WHEREAS, the Company is the franchisee in good standing under an existing cable franchise ordinance and has applied for a new or renewed franchise consistent with applicable Iowa and Federal law; and

WHEREAS, the Franchise granted by this Ordinance has *been* considered at a public hearing and approved by all requisite public action on the part of the City under applicable federal and state law.

NOW THEREFORE, be it enacted and ordained by the City Council of the City of Hospers, Iowa as follows:

SECTIONS

| | |
|-------------|---|
| SECTION 1. | REGULATORY AUTHORITY |
| SECTION 2. | GRANT OF FRANCHISE |
| SECTION 3. | TERM AND RENEWAL |
| SECTION 4. | FRANCHISE FEE |
| SECTION 5. | NONEXCLUSIVE FRANCHISE - |
| SECTION 6. | CONSTRUCTION AND INSTALLATION |
| SECTION 7. | SERVICE EXTENSIONS |
| SECTION 8. | OWNERSHIP AND REMOVAL |
| SECTION 9. | LEGAL COMPLIANCE |
| SECTION 10. | SCOPE OF REGUL TION |
| SECTION 11. | POLICE POWER |
| SECTION 12. | FORCE MAJEURE |
| SECTION 13. | ASSIGNMENT OR TRANSFER |
| SECTION 14. | ACCESS TO RECORDS |
| SECTION 15. | CONFIDENTIALITY |
| SECTION 16. | THIRD PARTY LIABILITY |
| SECTION 17. | PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS |
| SECTION 18. | LEGAL EFFECT |

APPENDIX A - FRANCHISES

SECTION 1. REGULATORY AUTHORITY

The Company's operation of the System shall be governed by this Ordinance only to the extent that the City is permitted to exercise its power as a local franchising authority with respect to the Company's multichannel video programming service under Iowa and Federal law. Without limiting the City's otherwise lawful authority under other applicable City codes and ordinances, this Ordinance shall regulate the Company's use and occupancy of the public rights of way within the City for the purpose of providing multichannel video service to subscribers served by the System.

SECTION 2. GRANT OF FRANCHISE

The Company is granted the nonexclusive right, license and authority (the "Franchise") to locate and operate the System in the City for the purpose of providing video programming services to end user subscribers located within the corporate boundaries of the City, including any areas annexed to the City in the future. The Franchise includes the right of the Company to construct, install, maintain, operate, repair replace and remove facilities and equipment comprising the System in the public rights-of-way and through easements dedicated for compatible uses throughout the corporate limits of the City.

SECTION 3. TERM AND RENEWAL

The first renewal term of the Franchise shall be ten (10) years from the Company's acceptance of the Franchise. At the end of the first renewal term, the Company may apply for further renewal of the Franchise by giving written notice to the City not less than one hundred eighty (180) days prior to the expiration of the Franchise. In determining whether to grant further renewals, the City shall consider those factors prescribed by Federal law, including (i) whether the Company has substantially complied with the material terms of the Franchise and with applicable laws; (ii) the extent and quality of the Company's video programming service; (iii) whether the Company remains financially, legally and technically qualified to provide video service; and (iv) whether renewal of the Franchise promotes the video-related community needs and interests.

SECTION 4. FRANCHISE FEE

For the term of the Franchise, the Company shall pay to the City an annual franchise fee equal to five percent (5%) of the Company's annual gross revenues derived from the operation of the System to provide multichannel video programming services to subscribers within the corporate boundaries of the City. For purposes of calculating the franchise fee, the Company's "gross revenues" shall be calculated as defined in Iowa Code § 477A. I (9)(a), as the same may be amended from time to time. The franchise fee shall be payable semi-annually at the Clerk's or as otherwise agreed by the City and the Company. Any franchise fees collected and paid under this Section may be credited to the City's general fund and used for the City's lawful general fund purposes. The Company may identify the franchise fee collected and paid under this Section as a separate line item on the regular bill of each subscriber. Upon reasonable request by the City, the Company shall provide the City with its business records supporting its calculation of the franchise fee for any identified period; provided that the Company shall not be required to maintain such business records in excess of twenty-four (24) months.

APPENDIX A - FRANCHISES

SECTION 5. NONEXCLUSIVE FRANCHISE

The Franchise is nonexclusive and shall in no way prevent the City from granting or renewing any other cable television or video service franchise. If the City grants or renews an additional cable television or video service franchise, the material terms and conditions of the additional franchise shall not provide a competitive preference or advantage to the franchisee under that franchise.

SECTION 6. CONSTRUCTION AND INSTALLATION

The Company shall construct, install, maintain, operate, repair, replace and remove the System in a manner consistent with accepted technical and engineering standards and in accordance with all applicable safety rules and regulations. All facilities and equipment comprising the System and located in the public rights of way shall be located so as to cause minimum interference with the proper use of the public rights of way and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any public right of way. In case of any facilities or equipment causing interference with the public right of way, the Company shall, at its own cost and expense and in a commercially reasonable manner, modify, remove or relocate such facilities or equipment. In the event that at any time during the term of the Franchise the City lawfully elects to alter or change any street, alley or other public right of way, the Company shall, if necessary and upon reasonable notice from the City, modify, remove or relocate any facilities or equipment at its own cost and expense and in a commercially reasonable manner. The Company shall have the authority, at its own cost and expense and in a commercially reasonable manner, to trim trees upon and overhanging the public rights of way so as to prevent the branches of such trees from coming in contact with the facilities and equipment of the Company. In case of any disturbance or damage to a public right of way, the Company shall, at its own cost and expense and in a commercially reasonable manner approved by the City, replace and restore such right of way to as good a condition as before the Company's activities were commenced. In the event that the Company does not timely comply with its obligations under this Section, the City may perform the work and recover its actual, verified costs from the Company. At the request of the City, the Company shall provide to the City Engineer or applicable City department accurate maps of the System, including the location of all facilities and equipment in the public rights of way.

SECTION 7. SERVICE EXTENSIONS.

The Company shall provide service to residents on a nondiscriminatory basis, and shall not deny access to video service to any resident or neighborhood on the basis of income. The Company shall serve all residents of the City, except to the extent that population density, adverse terrain or other factors render providing service commercially impracticable or technically infeasible. In the event the requirements of this Section are not met, extensions of service shall be required only on a basis which is commercially reasonable. Nothing in the preceding shall prohibit the Company from offering video service in any area not meeting the preceding density requirements on terms acceptable to the Company.

APPENDIX A - FRANCHISES

SECTION 8. OWNERSHIP AND REMOVAL

The System shall be and remain the exclusive property of the Company at all times and for all purposes. Any costs, expenses, taxes or other assessments arising from or related to the construction, installation, maintenance, operation, repair, replacement and removal of the System shall be the sole responsibility of the Company. Upon expiration or termination of the Franchise in accordance with this Ordinance, the Company shall, at its own cost and expense and within a commercially reasonable time under the circumstances, remove all facilities and equipment comprising the System and restore the public rights of way to as good a condition as before the Company's activities were commenced.

SECTION 9. LEGAL COMPLIANCE

The rights and obligations of the Company under the Franchise are subject at all times to compliance with Iowa and Federal law and all applicable requirements, specifications, rules and orders of the Federal Communications Commission (the "**FCC**"). Any condition or provision of this Ordinance that is inconsistent with Iowa or Federal law or applicable FCC regulations shall be deemed preempted and superseded.

SECTION 10. SCOPE OF REGULATION

Nothing in this Ordinance shall be interpreted or construed to impose any requirement that has the purpose or effect of prohibiting, limiting, restricting or conditioning the provision of telecommunications services or other communications or information services by the Company or any of its affiliates.

SECTION 11. POLICE POWER

The Company shall at all times during the term of the Franchise be subject to all lawful exercise of the City's police power. The City reserves the right to adopt from time to time such ordinances as may be necessary to exercise the City's police power as it may relate to the Franchise. In the case of emergency or disaster, the Company shall, upon request by the City, make available its facilities, for the City to provide emergency information and instructions. An emergency override shall be instituted via telephone access overriding all channels in the System. The Company shall provide explicit instructions in writing to the Mayor, City Manager and Chief of Police for such an event. The City agrees that such an emergency override system shall not be used as a general paging or messaging service. The City shall hold the Company harmless from any claims arising from the use or dissemination or content of the information or instructions including but not limited to, reasonable attorney's fees and costs.

APPENDIX A - FRANCHISES

SECTION 12. FORCE MAJEURE

The Company shall not be liable for any delay or failure in performance of any part of its obligations under this Ordinance from any cause beyond its control and without its fault or negligence, including acts of God, acts of civil or military authority, government regulations, adverse judicial proceedings, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation common carriers.

SECTION 13. ASSIGNMENT OR TRANSFER

The Company shall not assign or transfer any right granted under this Ordinance to any other individual or entity without the prior written consent of the City; provided that such prior written consent shall not be unreasonably withheld or delayed if the proposed assignee or transferee agrees in writing to assume the Company's obligations as franchisee, including compliance with the terms and conditions of this Ordinance. Notwithstanding the preceding or anything in this Ordinance to the contrary, no restrictions or special rights with respect to assignment or transfer of the Franchise or the System shall apply to transfers from the Company to any affiliate directly or indirectly controlling, controlled by or under common control with the Company.

SECTION 14. ACCESS TO RECORDS

Upon reasonable request by the City, the City may review the Company's books and records pertaining to the Franchise, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor the Company's compliance with the terms of this Franchise.

SECTION 15. CONFIDENTIALITY

The City shall keep confidential all information and data pertaining to the Company or its business and customers of a confidential or proprietary nature, and shall not disclose any such information to any other person, firm or entity (except to a governmental or regulatory body in response to a subpoena) and shall use such information only for purposes within the scope of the City's authority under this Ordinance. The City agrees that any confidential and proprietary information received pursuant to this Ordinance shall be disclosed only to those employees and other persons who have a proper need for its use. Upon expiration or termination of the Franchise, the City shall, at the direction of the Company, return or destroy all confidential or proprietary information provided by the Company along with any and all copies of such information. The obligations of the City under this Section shall survive the expiration or termination of the Franchise. Notwithstanding the foregoing, the Company acknowledges that the obligations of the City under this Section are subject to compliance with applicable open meeting or public records laws of the State of Iowa. The City shall not be liable for any disclosure required to be made in compliance with applicable open meeting or public records laws; provided such disclosure is made in good faith and in consultation with and reliance upon the advice of the City's legal counsel, and provided that prior written notice of the required disclosure is provided to the Company and its legal counsel.

APPENDIX A - FRANCHISES

SECTION 16. THIRD PARTY LIABILITY

Nothing in this Ordinance shall be deemed to create civil liability by one party for actions, omissions or negligence of the other party, or of the other party's agents, employees, officers or assigns. This Ordinance shall not be interpreted or construed to provide any third parties (including, but not limited to the Company's customers) with any remedy, claim, liability, reimbursement, cause of action or any other right as against the Company or the City. Each of the Company and the City shall bear responsibility for its own actions, omissions and negligence. Without limiting the preceding, the Company shall hold the City harmless from any claim, liability or damage arising from or caused by the Company's activities under the Franchise.

SECTION 17. PUBLIC, EDUCATIONAL AND GOVERNMENT ACCESS

During the term of the franchise, the Company will insure that the system has the capacity to afford the City a channel to be used for public, educational and government access. During those times that the channel is not being used by the City, the Company may use said channel for commercial or noncommercial programming use as the Company deems necessary. During the term of the Franchise, the Company shall carry the Iowa Public Television channel.

SECTION 18. LEGAL EFFECT

This Ordinance contains the entire agreement between the City and the Company regarding the Franchise and may only be amended or modified by written agreement signed by the City and the Company. Any ordinance or provision of any ordinance inconsistent with the provisions of this Ordinance is hereby repealed. Every provision of this Ordinance is intended to be severable. If any provision herein is invalid or unenforceable for any reason, this Ordinance will be construed and enforced as if the invalid or unenforceable provision were not a part of this Ordinance, and the remaining provisions will remain in full force and effect and will not be affected by the invalid or unenforceable provision or by its severance from this Ordinance.

(Editor's Note Ordinance 607 granting a Video Franchise to Premier Communications was approved October 7, 2017 by City Council and published in Siouxland Press on October 11, 2017.

APPENDIX A - FRANCHISES

CHAPTER 1 - FRANCHISES

ARTICLE 4 - ELECTRIC FRANCHISE

- 4.01 FRANCHISE GRANTED. A nonexclusive franchise is hereby granted unto Mid-American Energy, a corporation, its successors and assigns, (herein "grantee"), for a term of twenty-five (25) years, commencing with the date this ordinance becomes effective, to acquire, erect, maintain and operate plants and systems for electric light, heat and power, electric distribution systems and electric transmission systems, (herein "electric utilities"), within the present and future corporate limits of the city, and the grantee is granted the right, franchise and authority to construct, install and maintain such electric utilities over, across and under the streets, alleys and public grounds of the city, and private lands therein, and to furnish, supply, transmit and distribute electricity to the city and its inhabitants and other within and without the corporate limits for all lawful purposes, including public and private use, and upon such terms, conditions, restrictions and regulations as are adopted in this ordinance.
- 4.02 CONSTRUCTION. All construction, including both overhead and underground construction, shall be in accordance with the Iowa Electrical Safety Code, as adopted by the Iowa State Commerce Commission. Grantee shall have the right to trim or remove trees when reasonably necessary to efficiently operate its plant and render service.
- 4.03 AUTHORITY OF CITY. This ordinance shall apply to grantee and its successors and assigns. Grantee shall be subject to all legal right, power and authority now or hereinafter possessed by the city, to control and direct by ordinance or resolution the franchise herein granted and the manner in which the grantee shall use and enjoy it.
- 4.04 EMINENT DOMAIN. Grantee shall have the power to appropriate and condemn private property for the purpose of providing electrical service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of transmitting electricity in the public interest. The necessity for the taking of any private property by the grantee by condemnation shall be determined by the city council by resolution.
- 4.05 MOVING BUILDINGS AND MACHINERY. If any person shall move any machinery, equipment, building or other material which will encroach or could reasonably be expected to encroach within ten (10) feet of any above ground bare conductor or may require relocation of any conductor or the interruption of electric service, application shall be made to the mayor, and twenty-four (24) hours notice shall be given the grantee of the proposed encroachment. If good practice requires relocation of the conductors or interruption of service, the work shall be scheduled at a time that will not cause unreasonable inconvenience to the grantee or its customers and shall be at the expense of the applicant. Grantee may require payment in advance. Grantee will not be required to relocate above ground high voltage electric transmission lines if any alternate route exists for the movement of such material.

APPENDIX A - FRANCHISES

- 4.06 INDEMNIFICATION OF CITY. Grantee shall hold the city harmless from liability and damages resulting from negligence of grantee in the construction, operation or maintenance of electric utilities.
- 4.07 REPEALER. Ordinance No. 509 is hereby repealed, such repeal to be effective as of the effective date of this ordinance.
- 4.08 EFFECTIVE. This ordinance shall take effect and be in full force and effect from and after its written acceptance by the grantee filed with the city clerk, but not sooner than fourteen (14) days after its approval by the electors of the city voting thereon.

EDITOR'S NOTE

Ordinance No. 527 was adopted by the city council on May 29, 2002 granting an additional 25-year franchise.

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

APPENDIX B - WATER, SEWER, SOLID WASTE RATES

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

CHAPTER 1: RATES

ARTICLE 1 - RATES

1.01 SOLID WASTE RATES. The fee for refuse collection and disposal services use or available shall be:

- a. For each residence - \$12.25 per month
- b. For each commercial, industrial or institutional establishment, the fee shall be set by the collector according to the amount of solid waste accumulated.

1.02 SEWER USE CHARGES

Minimum Charge:

a. Residential Users:

The minimum charge shall be \$12.50 for residential users plus \$1.00 per 1000 gallons over 2000 gallons based on water purchases.

b. Commercial/Light Industrial:

The minimum charge shall be \$20.25 for commercial users plus \$1.50 per 1000 gallons

c. Heavy Industrial: 50,000 plus gallons per day

The minimum charge shall be \$5400.00, plus other wastewater charges as follows:

Other wastewater charges:

Flow: Charges are \$1.25 per 1,000 gallons

BOD: Charges are \$0.25 per pound

TKN: Charges are \$0.50 per pound

2. **Penalty Rates:** The following penalty rates shall also apply for these customers who contribute wastewater, the strength of which is greater than normal domestic sewage. The following penalty rates shall apply to any average monthly flows or average monthly BOD / TKN loadings in excess of the negotiated monthly limitations.

Flow: 0 — 5,000 gpd over limit equals \$1000 fine per 1,000 gallons

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

5,001 — 10,000 gpd over limit equals \$1,500 fine per 1,000 gallons
More than 10,001 gpd over limit equals \$2,000 fine per 1,000 gallons

Bod: 0 — 100 pounds over limit per day equals \$5.00 per pound
More than 100 pounds over limit per day equals \$10.00 per pound

TKN: 0 — 100 pounds over limit per day equals \$3.00 per pound
More than 100 pounds over limit per day equals \$6.00 per pound

It will automatically trigger a review of the penalty rates by the City of Hospers, Iowa if any user is in a penalty situation for three consecutive months.

(Editor's Note: Ordinance 595, approved by Council March 26, 2014, amended the sewer rates and Penalty Rates)

1.03 WATER RATES.

RATES AND SERVICES. Water service shall be furnished at the following rates charged monthly.

For residential/small commercial water users served by a 5/8" meter, the water rates shall be \$17.15 minimum monthly service charge for water use of 1,000 gallons or less, plus \$3.64* for each additional 1,000 gallons of water. Residential/small commercial is defined as users whom water usage is 50,000 gallons or less per month in any month and 3,000 gallons or less per day on any given day. Any residence/business that is outside the city limits of the City of Hospers, Iowa hooked up to water supplied by the City of Hospers, Iowa shall pay a minimum monthly service charge of \$25.73 or 1 1/2 times in City rate for water use of 1,000 gallons or less, plus \$5.46* or 1 1/2 times in City rate for each additional 1,000 gallons of water.

Industrial users shall be those businesses using 50,001 gallons or more of water in any given month 3,001 or more gallons of water on *any* given day. The water rate for industrial users shall be the following monthly service charge, plus \$3.26* per thousand gallons used:

| Meter Size | Maximum Use Per Day | Service Charge |
|------------|---------------------|----------------|
| 1" | 5,000 | \$60.00 |
| 1 1/2" | 20,000 | \$250.00 |
| 2" | 40,000 | \$495.00 |
| 3" | 120,000 | \$1,510.00 |
| 4" | 219,000 | \$2,586.00 |

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

*A 6% increase in the additional charges for water usage over 1,000 gallons and for industrial users shall be implemented in 2015, 2016 and 2017 effective January 1st, of each respective year.
(Editor's Note" Ordinance 597, Approved by Council on May 28, 2014 amended the water rates)

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

CHAPTER 2: METHODOLOGY

ARTICLE 2 - LIQUID WASTE CHARGE METHODOLOGY

- 2.01 INTRODUCTION: This appendix presents the defining terms and methodology used in calculating user charge rates and illustrates the calculations followed in arriving at the first year's user charges.
- 2.02 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:
1. "BOD" (Biochemical Oxygen Demand): shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter (mg/l).
 2. "Normal Domestic Wastewater": shall mean wastewater that has a BOD concentration of not more than 200 mg/l and a suspended solids concentration of not more than 200 mg/l.
 3. "Operation and Maintenance": shall mean all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed.
 4. "Replacement": shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
 5. "Residential Contributor": shall mean a contributor to the city's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only.
 6. "Shall": is mandatory, "May": is permissive.
 7. "SS"(Suspended Solids): shall mean 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.
 8. "Treatment Works": shall mean any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping power, and other equipment and their appurtenances; extensions improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

acquisition of the land that will be an integral part of the treatment process or any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

9. "Useful Life": shall mean the estimated period during which a treatment works will be operated.
10. "User Charge": shall mean that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, and replacement of the wastewater treatment works.
11. "Water Meter": shall mean a water volume measuring and recording device, furnished and/or installed by the City of Hospers, or furnished and/or installed by a user and approved by the City of Hospers.

2.02 **METHODOLOGY:** The rates established in this appendix are based on estimates of expenses. The actual expenses that occur may differ from these estimates and certainly they will change as time passes. Therefore, the rates must be re-established whenever necessary to reflect actual expenses. Once the system is in use, the expenses can be determined from operating records and the rates can be adjusted based on these figures.

1. Expenses: The total annual expenses associated with the treatment works, as defined in this section, are estimated as follows:

| <u>ITEM</u> | | <u>ANNUAL EXPENSE</u> |
|--|-----------------|---------------------------|
| 1) General Sewage System Expenses | | |
| Billing and Collection | \$1,300.00 | |
| Administration | 300.00 | |
| Labor | 1,500.00 | |
| Supplies | <u>315.00</u> | |
| | \$3,415.00 | \$3,415.00 |
| 2) Operation, Maintenance and Replacement Expenses | | |
| Power | \$7,000.00 | |
| Labor | 9,200.00 | |
| Material Costs | 500.00 | |
| Replacement Costs | <u>2,000.00</u> | |
| | \$18,700.00 | |
| | \$18,700.00 | \$18,700.00 |
| 3) Debt Retirement Expenses | \$35,000.00 | <u>\$35,000.00</u> |
| | | \$57,115.00 |

2. Allocation of Expenses: The total operation and maintenance including replacement expense is allocated to the appropriate pollutants in the following manner.

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

Annual \$3,180 to Treat Annual Flow = 17% annual cost allocated to flow x (total annual O&M budget minus billing & collection)

Annual \$7,480 to Treat Annual BOD = 40% annual cost allocated to BOD x (total annual O&M budget minus billing & collection)

Annual \$7,480 to Treat Annual SS = 40% annual cost allocated to SS x (total annual O&M budget minus billing & collection)

Annual \$560 to Treat Annual Other = 3% annual cost allocated to pollutant x (total annual O&M budget minus billing & collection)

3. Loadings:

The initial hydraulic loading is estimated to be 24M gal/year.

The initial BOD loading is estimated to be 153,300 pounds/year.

The initial SS loading is estimated to be 153,300 pounds/year.

The initial other pollutant loading is estimated to be 10,920 pounds/year.

4. Unit Costs

Initial unit cost for flow in \$0.13/1000 gal = $\frac{\text{annual \$3,180 to treat annual flow}}{\text{estimated annual hydraulic loading}}$

Initial unit cost for BOD in \$0.05/pound = $\frac{\text{annual \$7,480 to treat annual BOD}}{\text{estimated annual BOD loading}}$

Initial unit cost for SS in \$0.05/pound = $\frac{\text{annual \$7,480 to treat annual SS}}{\text{estimated annual SS loading}}$

Initial unit cost for other pollutants = $\frac{\text{annual \$560 to treat other annual pollutants}}{\text{estimated annual other pollutant loading}}$
in \$0.05/pound =

5. Minimum Charge:

Annual billing and collection cost = \$3,415

Annual cost to treat infiltration/inflow
(assumed clear water) = unit cost to treat
flow x annual infiltration/inflow = \$885

TOTAL Annual Minimum Cost = \$4,300

Minimum Charge/User/Billing Period Month = \$1.23

(\$4,300)
(12) month (292 users) = \$1.23

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

6. Residential User Unit Charge: The residential user unit charge is calculated as follows using the pollutant concentrations defining normal domestic wastewater, as defined in this section.

Residential unit charge = unit flow charge

+ (unit BOD charge) (BOD_{ND}) (.00834)

+ (unit SS charge) (SS_{ND}) (.00834)

where: Residential unit charge is in \$0.29/1000 gal.

Unit flow charge is in \$0.13/1000 gal from paragraph 4

Unit BOD charge is in \$0.05/lb BOD from paragraph 4

Unit SS charge is in \$0.05/lb SS from paragraph 4

BOD_{ND} is the normal domestic BOD strength in milligrams per liter (mg/l) as defined in this article.

SS_{ND} is the normal domestic SS strength in mg/l as defined in this article.

and .00834 is a unit conversion factor

This total residential unit charge is to be inserted in Title II, Chapter 2, Article 6 of this ordinance.

An example calculation of a residential charge for a resident of the City of Hospers follows:

| | |
|--------------------------------|-------------|
| Minimum per month = | \$1.23 |
| Debt Retirement \$1.25/1000 = | \$1.25/1000 |
| Flow = | 0.13 |
| BOD & SS 0.05 (200) 0.00834+ = | <u>0.16</u> |
| 0.05 (200) 0.00834 | 1.54 |

4,600 x \$1.54per 1000 gal. = \$7.08

Average monthly Residential Billing = \$8.31

7. Extra Strength Users: For users who contribute wastewater that has greater strength than normal domestic wastewater, the user charge will be calculated as follows:

Total monthly charge to extra strength user =

(\$4,300)

(12) month (292 users) = \$1.23

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

6. Residential User Unit Charge: The residential user unit charge is calculated as follows using the pollutant concentrations defining normal domestic wastewater, as defined in this section.

Residential unit charge = unit flow charge

+ (unit BOD charge) (BOD_{ND}) (.00834)

+ (unit SS charge) (SS_{ND}) (.00834)

where: Residential unit charge is in \$0.29/1000 gal.

Unit flow charge is in \$0.13/1000 gal from paragraph 4

Unit BOD charge is in \$0.05/lb BOD from paragraph 4

Unit SS charge is in \$0.05/lb SS from paragraph 4

BOD_{ND} is the normal domestic BOD strength in milligrams per liter (mg/l) as defined in this article.

SS_{ND} is the normal domestic SS strength in mg/l as defined in this article.

and .00834 is a unit conversion factor

This total residential unit charge is to be inserted in Title II, Chapter 2, Article 6 of this ordinance.

An example calculation of a residential charge for a resident of the City of Hospers follows:

| | |
|-----------------------------------|-------------|
| Minimum per month = | \$1.23 |
| Debt Retirement \$1.25/1000 = | \$1.25/1000 |
| Flow = | 0.13 |
| BOD & SS 0.05 (200) 0.00834+ = | <u>0.16</u> |
| 0.05 (200) 0.00834 | 1.54 |

4,600 x \$1.54per 1000 gal. = \$7.08

Average monthly Residential Billing = \$8.31

7. Extra Strength Users: For users who contribute wastewater that has greater strength than normal domestic wastewater, the user charge will be calculated as follows:

APPENDIX B – WATER, SEWER & SOLID WASTE RATES

Total monthly charge to extra strength user =

charge to residential user + surcharge for BOD (if appropriate) + surcharge for SS (if appropriate) + surcharge for other pollutant (if appropriate).

Total monthly charge to extra strength user =

minimum charge

+v (residential unit charge)

+v (unit BOD charge) ($BOD_{ES}-BOD_{ND}$) (.00834)

+v (unit SS charge) ($SS_{ES}-SS_{ND}$) (.00834)

+ and so on for any other appropriate pollutant(s) (specify).

where: Total monthly charge to extra strength user is in dollars

Minimum charge is in dollars as calculated in paragraph 5

v is the volume of wastewater in 1000 gallons discharged by the extra strength user during the month

Residential unit charge is in \$0.29/1000 gal as calculated in paragraph 6.

Unit BOD charge is in \$0.05/lb BOD from paragraph 4

Unit SS charge is in \$0.05/lb SS from paragraph 4

BOD_{ES} is the average BOD concentration in milligrams per liter (mg/l) contributed by the extra strength user during the month

SS_{ES} is the average SS concentration in mg/l contributed by the extra strength user during the month

BOD_{ND} Is the normal domestic BOD strength in mg/l as defined in this article

SS_{ND} is the normal domestic SS strength in mg/l as defined in this article and .00834 is a unit conversion factor.

An example user charge calculation for an extra strength user such as an industry contributing waste to Hospers wastewater treatment plant is as follows:

| | |
|--|---------------|
| Minimum rate per month = | \$1.23 |
| 33,333 gal x \$1.54/1000 x 30 days = | 1,539.98 |
| \$0.05/lb of BOD (1,532 mg/l - 200 mg/l) | |
| x 0.0333 mgd x 8.34 x 30 days = | 554.89 |
| \$0.05/lb of SS (1,532 mg/l - 200 mg/l) | |
| x 0.0333 mgd x 8.34 x 30 days = | <u>554.89</u> |
| | \$2,650.99 |

Extra charge for other pollutant (Kjeldahl Nitrogen) will be added to the cost.