

# Table of Contents

<b>TABLE OF CONTENTS</b> .....	i
<b>SUPPLEMENT RECORD</b> .....	iv
<b>GENERAL CODE PROVISIONS</b> .....	1
<b>CHAPTER 1 - CODE OF ORDINANCES</b> .....	1
<b>CHAPTER 3 - MUNICIPAL INFRACTIONS</b> .....	7
<b>CHAPTER 5 – OPERATING PROCEDURES</b> .....	10
<b>CHAPTER 6 - CITY ELECTIONS</b> .....	19
<b>CHAPTER 7 - FISCAL MANAGEMENT</b> .....	21
<b>CHAPTER 8 - URBAN RENEWAL</b> .....	25
<b>ADMINISTRATION, BOARDS AND COMMISSIONS</b> .....	27
<b>CHAPTER 15 MAYOR</b> .....	27
<b>CHAPTER 16 MAYOR PRO TEM</b> .....	29
<b>CHAPTER 17 COUNCIL</b> .....	30
<b>CHAPTER 18 - CITY CLERK</b> .....	34
<b>CHAPTER 19 - CITY TREASURER</b> .....	38
<b>CHAPTER 20 CITY ATTORNEY</b> .....	39
<b>CHAPTER 21 PLANNING AND ZONING COMMISSION</b> .....	41
<b>CHAPTER 30 - CONTRACT LAW ENFORCEMENT</b> .....	45
<b>CHAPTER 35 - FIRE PROTECTION</b> .....	46
<b>PUBLIC OFFENSES</b> .....	47
<b>CHAPTER 45 - PUBLIC OFFENSES</b> .....	47
<b>NUISANCES AND ANIMAL CONTROL</b> .....	57
<b>CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE</b> .....	57
<b>CHAPTER 51 - JUNK AND JUNK VEHICLES</b> .....	65
<b>CHAPTER 52 - DISEASE &amp; DEAD TREE CONTROL</b> .....	67
<b>CHAPTER 55 - ANIMAL PROTECTION AND CONTROL</b> .....	69
<b>TRAFFIC AND VEHICLES</b> .....	79
<b>CHAPTER 60 ADMINISTRATION OF TRAFFIC CODE</b> .....	79
<b>CHAPTER 61 - TRAFFIC CONTROL DEVICES</b> .....	82
<b>CHAPTER 62 - GENERAL TRAFFIC REGULATIONS</b> .....	83
<b>CHAPTER 63 – SPEED REGULATIONS</b> .....	92

<b>CHAPTER 64 TURNING REGULATIONS .....</b>	<b>94</b>
<b>CHAPTER 65 STOP OR YIELD REQUIRED .....</b>	<b>95</b>
<b>CHAPTER 66 LOAD AND WEIGHT RESTRICTIONS .....</b>	<b>97</b>
<b>CHAPTER 67 PEDESTRIANS .....</b>	<b>98</b>
<b>CHAPTER 68 ONE-WAY TRAFFIC .....</b>	<b>99</b>
<b>CHAPTER 69 PARKING REGULATIONS .....</b>	<b>100</b>
<b>CHAPTER 70 TRAFFIC CODE ENFORCEMENT PROCEDURES .....</b>	<b>105</b>
<b>CHAPTER 75 ALL-TERRAIN VEHICLES AND SNOWMOBILES.....</b>	<b>107</b>
<b>CHAPTER 76 BICYCLE REGULATIONS.....</b>	<b>112</b>
<b>CHAPTER 80 - ABANDONED VEHICLES.....</b>	<b>115</b>
<b>CHAPTER 81 - GOLF CARTS .....</b>	<b>118</b>
<b>CHAPTER 83 – RECREATIONAL VEHICLES.....</b>	<b>120</b>
<b>WATER.....</b>	<b>123</b>
<b>CHAPTER 90 - WATER SERVICE SYSTEM .....</b>	<b>123</b>
<b>CHAPTER 91 - WATER METERS.....</b>	<b>128</b>
<b>CHAPTER 92 - WATER RATES .....</b>	<b>130</b>
<b>CHAPTER 93 - WATER CONSERVATION .....</b>	<b>134</b>
<b>SANITARY SEWER .....</b>	<b>139</b>
<b>CHAPTER 95 ON-SITE WASTEWATER SYSTEMS.....</b>	<b>139</b>
<b>CHAPTER 100 - STORM SEWER.....</b>	<b>140</b>
<b>GARBAGE AND SOLID WASTE .....</b>	<b>143</b>
<b>CHAPTER 105 - SOLID WASTE CONTROL.....</b>	<b>143</b>
<b>CHAPTER 106 COLLECTION OF SOLID WASTE .....</b>	<b>150</b>
<b>FRANCHISES AND OTHER SERVICES .....</b>	<b>153</b>
<b>CHAPTER 110 - NATURAL GAS FRANCHISE .....</b>	<b>153</b>
<b>CHAPTER 112 - CABLE TELEVISION FRANCHISE .....</b>	<b>161</b>
<b>CHAPTER 113 ELECTRIC FRANCHISE (TRANSMISSION SYSTEM) .....</b>	<b>165</b>
<b>REGULATION OF BUSINESS AND VOCATIONS.....</b>	<b>167</b>
<b>CHAPTER 120 - BEER, LIQUOR AND WINE CONTROL - .....</b>	<b>167</b>
<b>CHAPTER 121 CIGARETTE AND TOBACCO PERMITS .....</b>	<b>171</b>
<b>CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS .....</b>	<b>175</b>
<b>CHAPTER 123 - HOUSE MOVERS .....</b>	<b>180</b>
<b>STREETS AND SIDEWALKS .....</b>	<b>183</b>
<b>CHAPTER 135 - STREET USE AND MAINTENANCE .....</b>	<b>183</b>
<b>CHAPTER 136 - VACATION AND DISPOSAL OF STREETS.....</b>	<b>188</b>

<b>CHAPTER 137 - STREET GRADES .....</b>	<b>190</b>
<b>CHAPTER 138 –NAMING STREETS.....</b>	<b>191</b>
<b>CHAPTER 139 - REGULATIONS GOVERNING PUBLIC LAKE ACCESS AREAS .....</b>	<b>192</b>
<b>BUILDING AND PROPERTY REGULATIONS .....</b>	<b>197</b>
<b>CHAPTER 145 - DANGEROUS BUILDINGS.....</b>	<b>197</b>
<b>CHAPTER 146 - MANUFACTURED AND MOBILE HOMES .....</b>	<b>200</b>
<b>CHAPTER 150 - BUILDING NUMBERING.....</b>	<b>202</b>
<b>ZONING ORDINANCE.....</b>	<b>205</b>
<b>CHAPTER 165 - ZONING ORDINANCE REGULATIONS .....</b>	<b>205</b>
<b>See Separate Document to View Chapter 165 Zoning Ordinance Regulations.....</b>	<b>205</b>
<b>SUBDIVISION REGULATIONS .....</b>	<b>207</b>
<b>CHAPTER 166 – SUBDIVISION REGULATIONS .....</b>	<b>207</b>
<b>CHAPTER 167 – LANDS DEDICATED TO THE PUBLIC USE .....</b>	<b>217</b>
<b>CHAPTER 168 – COMMUNICATION TOWERS .....</b>	<b>218</b>
<b>AIRPORT ZONING .....</b>	<b>221</b>
<b>CHAPTER 169 AIRPORT ZONING .....</b>	<b>221</b>
<b><i>Airport Land Use &amp; Height Overlay Zoning Map.....</i></b>	<b>237</b>

**SUPPLEMENT RECORD**

<b>SUPPLEMENT</b>		<b>ORDINANCES AMENDING CODE</b>		
<b>Supp. No.</b>	<b>Repeals, Amends or Adds</b>	<b>Ord. No.</b>	<b>Date</b>	<b>Subject</b>
Nov-06		109		Not Adopted
	165.24B	110	6-12-06	PUD-Planned Unit Development District
	165.36(9)	111	2-13-06	Variance or Special Use Permit Denial
	165.23(7)(G & H); 165.26(2)(A); 165.26(2)(A)(9)	112	6-12-06	Parking Requirements
	165.33 (paragraph)	114	10-16--06	Building Permit Requirements
May-07	165.14	113	5-14-07	Fences, Walls and Vision Clearance
	165.34A	115	5-14-07	Building Permit Inspections
	165.03	116	4-9-07	Rezoning from C to LF
Aug-09	92.02	117	11-12-07	Water Rates
	165.24A	118	10-22-07	I-Institutional District
	165.25(7)	119	10-22-07	Special Uses: Conditions for Approval
	Ch. 165	120	10-22-07	Rezoning from LF to I
	165.21(9)(C); 165.22(9)(C); 165.23(7)(C); 165.27; 166.10(6)	121	7-28-08	Low-Impact Development Storm Water Management Requirements
	165.22(10)(H)(1); 165.22(10)(I); 165.22(10)(J); 165.24A(11)(H)(1); 165.24A(11)(I); 165.24A(11)(J)	122	6-9-08	Applications and Procedures for Landscaping and Excavation of Shoreline Bank
	Ch. 165	123	5-27-08	Rezoning from R to I
	Ch. 165	124	5-27-08	Rezoning from R to I
	165.22(4)(B)	125	9-10-08	Setback Regulations in Lake Frontage Residential District
	Ch. 165	126	9-10-08	Rezoning from R to I

<b>Supp. No.</b>	<b>Repeals, Amends or Adds</b>	<b>Ord. No.</b>	<b>Date</b>	<b>Subject</b>
	65.01	127	11-12-08	Stop Signs - Traffic Stop Required
	165.14(5)	128	9-10-08	Fence Location
	67.04	129	11-12-08	Roller Skates and Skateboards
	139.02; 139.03(3 & 4); 139.04(3); 139.05(1, 2, 5, 6)	130	4-27-09	Regulations Governing Public Lake Access Areas
	Ch. 135	131	3-17-09	Include Recreational Trails
Mar-11	165.21(8); 165.23(6); 165.23(7)(C); 165.23(7)(F)	132	12-14-09	Open Space Requirements
	165.13	133	2-8-10	Residential Front Yard Setback Modification
	50.02(21)	134	5-10-10	Feeding Wild or Stray Animals
	Ch. 111	135	2-21-11	Electric Franchise
	Ch. 81	136	9-13-10	Golf Carts
	75.05(1, 2, 7-11); 75.07	137	11-8-10	All-Terrain Vehicles
	165.22; 165.22(9) (C); 165.22(10)(C); 165.22(10)(H)(3); 165.22(10)(J)	138	1-10-11	Landscaping in LF Zoning District
Feb-13	Ch. 113	139	9-12-11	Electric Franchise
	105.06; 105.11; 105.13	140	2-13-12	Solid Waste Control
	21.01	141	2-13-12	Planning and Zoning Commission
	55.15; 55.16	142	4-9-12	Wild or Dangerous Animals; Pets and Hobby Animals
	65.01(5)	143	5-14-12	Stop Required
	165.22(4)(B)	144	5-14-12	Front Yard Setback
	165.11(7)	145	7-9-12	Accessory Buildings
	165.08; 165.09(3); 165.22(10)(L)	146	12-10-12	Nonconforming Structures
	165.21(5); 165.22(4) (B); 165.24A(6)(B) Tables	147	12-10-12	Lot Area, Width, Yard Requirements

<b>Supp. No.</b>	<b>Repeals, Amends or Adds</b>	<b>Ord. No.</b>	<b>Date</b>	<b>Subject</b>
Feb-13	105.05(2); 105.07; 105.11(6); 106.01; 106.05; 106.08; 106.08(1)(C)	148	12-10-12	Trees and Tree Trimmings; Recyclable Materials
	92.02	149	7-15-13	Rates for Water Service
Aug-15	165.09B	150	10-21-13	Nonconforming Uses & Structures Within Required Front Yards in Lake Front Frontage Zoning District
	Chapter 169	151	12-9-13	Creates Spirit Lake Airport Ordinance
	Chapter 165	152	6-18-14	Approve 2014 Zoning Ordinance
	80.01; 82.02; 82.03; 8	153	9-8-14	Regulation, Storage and Use of Recreational Vehicles
	92.04(4); 92.09	154	9-8-14	Late Payment Penalty; Customer Deposit
	92.04(4)	155	10-13-14	Late Payment Penalty

## GENERAL CODE PROVISIONS

### CHAPTER 1 - CODE OF ORDINANCES

<b>1.01 Title</b>	<b>1.11 Severability</b>
<b>1.02 Definitions</b>	<b>1.12 Warrants</b>
<b>1.03 City Powers</b>	<b>1.13 General Standards for Action</b>
<b>1.04 Indemnity</b>	<b>1.14 Standard Penalty</b>
<b>1.05 Personal Injuries</b>	<b>1.15 Separate Offense</b>
<b>1.06 Rules of Construction</b>	<b>1.16 Single Offense</b>
<b>1.07 Extension of Authority</b>	<b>1.17 License Revocation; Infraction Charges; Civil Remedies</b>
<b>1.08 Amendments</b>	
<b>1.09 Catchlines and Notes</b>	
<b>1.10 Altering Code</b>	

#### **1.01 TITLE.**

This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Wahpeton, Iowa.

#### **1.02 DEFINITIONS.**

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

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

12. "Ordinances" means the ordinances of the City of Wahpeton, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "*Peace officers*", sometimes designated "law enforcement officers", include:
  - 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 Code of Iowa section 456A.13.
  - e. Such employees of the department of transportation as are designated "*peace officers*" by resolution of the department under Code of Iowa section 321.477.
  - f. Such persons as may be otherwise so designated by law.
14. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
15. "Property Owner" means a person owning private/real property in the City as shown by the County's Auditor's plats of the City.
16. "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.
17. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
18. "Shall" imposes a duty.
19. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
20. "State" means the State of Iowa.
21. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
22. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

### **1.03 CITY POWERS.**

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

*(Code of Iowa, Sec. 364.1)*

### **1.04 INDEMNITY.**

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

### **1.05 PERSONAL INJURIES.**

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

*(Code of Iowa, Sec. 364.14)*

### **1.06 RULES OF CONSTRUCTION.**

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

### **1.07 EXTENSION OF AUTHORITY.**

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

### **1.08 AMENDMENTS.**

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

*(Code of Iowa, Sec. 380.2)*

### **1.09 CATCHLINES AND NOTES.**

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

### **1.10 ALTERING CODE.**

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

*(Code of Iowa, Sec. 718.5)*

### **1.11 SEVERABILITY.**

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

### **1.12 WARRANTS.**

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

### **1.13 GENERAL STANDARDS FOR ACTION.**

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

#### **1.14 STANDARD PENALTY.**

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

#### **1.15 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.

#### **1.16 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.

#### **1.17 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.

## **CHARTER 2 CHARTER**

### **2.01 Title.**

### **2.02 Form of Government.**

### **2.03 Powers and Duties.**

### **2.04 Number and Term of Council.**

### **2.05 Term of Mayor.**

### **2.06 Copies on File.**

#### **2.01 TITLE.**

This chapter may be cited as the charter of the City of Wahpeton, Iowa.

#### **2.02 FORM OF GOVERNMENT.**

The form of government of the City is the Mayor-Council form of government.

*(Code of Iowa, Sec. 372.4)*

#### **2.03 POWERS AND DUTIES.**

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

#### **2.04 NUMBER AND TERM OF COUNCIL.**

The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 376.2)*

#### **2.05 TERM OF MAYOR.**

The Mayor is elected for a term of two (2) years.

*(Code of Iowa, Sec. 376.2)*

#### **2.06 COPIES ON FILE.**

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

*(Code of Iowa, Sec. 372.1)*

## CHAPTER 3 - MUNICIPAL INFRACTIONS

**3.01 Municipal Infraction**  
**3.02 Environmental Violation**  
**3.03 Penalties**

**3.04 Civil Citations**  
**3.05 Alternative Relief**  
**3.06 Criminal Penalties**

### **3.01 MUNICIPAL INFRACTION.**

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

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

### **3.02 ENVIRONMENTAL VIOLATION.**

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

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

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

### **3.03 PENALTIES.**

A municipal infraction is punishable by the following civil penalties:

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

1. Standard Civil Penalties.
  - A. First Offense - Not to exceed \$750.00
  - B. Each Repeat Offense - Not to exceed \$1,000.00

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

2. Special Civil Penalties.

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

**3.04 CIVIL CITATIONS.**

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

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

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

### **3.05 ALTERNATIVE RELIEF.**

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

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

### **3.06 CRIMINAL PENALTIES.**

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

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

## CHAPTER 5 – OPERATING PROCEDURES

**5.01 Oaths**  
**5.02 Bonds**  
**5.03 Duties - General**  
**5.04 Books and Records**  
**5.05 Transfer to Successor**  
**5.06 Meetings**  
**5.07 Conflict of Interest**  
**5.08 Resignations**

**5.09 Removal of Appointed Officers & Employees**  
**5.10 Vacancies**  
**5.11 Gifts.**  
**5.12 Right to Examine Public Records - Exceptions.**  
**5.13 Supervision - Fees.**  
**5.14 Hours When Available**  
**5.15 Unlawful Use of City Property**

### **5.01 OATHS.**

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after being certified as elected but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected or as provided in Code of Iowa, Sections 63.3 and 63.4.

*(Code of Iowa, Sec. 63.1)*

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

*(Code of Iowa, Sec. 63.10)*

3. Officers Empowered to Administer Oaths. The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:
  - A. Mayor
  - B. City Clerk
  - C. Members of all boards, commissions or bodies created by law.

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

### **5.02 BONDS.**

Surety bonds are provided in accordance with the following:

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

*(Code of Iowa, Sec. 64.13)*

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

*(Code of Iowa, Sec. 64.19)*

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

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

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

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

### **5.03 DUTIES - GENERAL.**

Each municipal officer shall exercise the powers and perform the duties prescribed by law and Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

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

### **5.04 BOOKS AND RECORDS.**

All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.

*(Code of Iowa, Sec. 22.2 & 22.3A)*

### **5.05 TRANSFER TO SUCCESSOR.**

Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer's custody and appertaining to that office.

### **5.06 MEETINGS.**

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.
  - 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.
- 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.
- 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)*

#### **5.07 CONFLICT OF INTEREST.**

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

*(Code of Iowa, Sec. 362.5)*

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**5.08 RESIGNATIONS.**

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

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

**5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.**

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

*(Code of Iowa, Sec. 372.15)*

**5.10 VACANCIES.**

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

### **5.11 GIFTS.**

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

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

### **5.12 RIGHT TO EXAMINE PUBLIC RECORDS — EXCEPTIONS.**

1. Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record. All rights under this section are in addition to the right to obtain a certified copy of a public record under Code of Iowa, section 622.46.
2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.
3. However, notwithstanding subsections 1 and 2, a government body is not required to permit access to or use of the following:
  - a. A geographic computer database by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the database upon the request of any person.
  - b. Data processing software developed by the government body, as provided in Code of Iowa, section 22.3A.

*(Code of Iowa Sec, 22.2)*

4. The City will not release confidential records as listed and described in Code of Iowa, Chapter 22.7.

**5.13 SUPERVISION — FEES.**

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian’s authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the examination and copying.
2. All expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian’s authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

*(Code of Iowa, Sec. 22.3)*

**5.14 HOURS WHEN AVAILABLE.**

The rights of persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.

*(Code of Iowa, Sec. 22.4)*

**5.15 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))*

## **CHAPTER 6 - CITY ELECTIONS**

### **6.01 Nominating Method to Be Used**

### **6.02 Nominations by Petition**

### **6.03 Adding Name by Petition**

### **6.04 Preparation of Petition and Affidavit**

### **6.05 Filing, Presumption, Withdrawals, Objections**

### **6.06 Persons Elected**

#### **6.01 NOMINATING METHOD TO BE USED.**

All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

*(Code of Iowa, Sec. 376.3)*

#### **6.02 NOMINATIONS BY PETITION.**

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

*(Code of Iowa, Sec. 45.1)*

#### **6.03 ADDING NAME BY PETITION.**

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

*(Code of Iowa, Sec. 45.2)*

#### **6.04 PREPARATION OF PETITION AND AFFIDAVIT.**

Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be in the form prescribed by the Secretary of State, shall include information required by the Code of Iowa, and shall be signed in accordance with the Code of Iowa.

(Ord. 89 - Jan. 03 Supp.)

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

#### **6.05 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS.**

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

*(Code of Iowa, Sec. 45.4)*

**6.06 PERSONS ELECTED.**

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

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

## **CHAPTER 7 - FISCAL MANAGEMENT**

**7.01 Purpose**  
**7.02 Finance Officer**  
**7.03 Cash Control**  
**7.04 Fund Control**

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

### **7.01 PURPOSE.**

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

### **7.02 FINANCE OFFICER.**

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

### **7.03 CASH CONTROL.**

To assure the proper accounting and safe custody of moneys the following shall apply:

1. **Deposit of Funds.** All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. **Deposits and Investments.** All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.

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

### **7.04 FUND CONTROL.**

There shall be established and maintained separate and distinct funds in accordance with the following:

1. **Revenues.** All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. **Expenditures.** No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. **Emergency Fund.** No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

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

- A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and
- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months. *(IAC, 545-2.5[384,388], Sec. 2.5[5])*

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

#### **7.05 OPERATING BUDGET PREPARATION.**

The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.

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

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

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

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

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

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

#### **7.06 BUDGET AMENDMENTS.**

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

*(Code of Iowa, Sec. 384.18)*

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

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

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

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

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

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

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

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

## **7.07 ACCOUNTING.**

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

## **7.08 FINANCIAL REPORTS.**

The finance officer shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

*(Code of Iowa, Sec. 384.22)*

**CHAPTER 8 - URBAN RENEWAL**

<b>EDITOR'S NOTE</b>		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>NAME OF AREA</b>
48	October 9, 1995	Wahpeton Urban Renewal Area
64	April 13, 1998	Wahpeton Urban Renewal Area



## ADMINISTRATION, BOARDS AND COMMISSIONS

### CHAPTER 15 MAYOR

#### 15.01 Term of Office

#### 15.02 Powers and Duties

#### 15.03 Appointments

#### 15.04 Compensation

#### 15.05 Voting

#### 15.01 TERM OF OFFICE.

The Mayor is elected for a term of two (2) years.

*(Code of Iowa, Sec. 376.2)*

#### 15.02 POWERS AND DUTIES.

The powers and duties of the Mayor are as follows:

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

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

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

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

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

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

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within fourteen days (14) after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.

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

### **15.03 APPOINTMENTS.**

The Mayor shall appoint the following officials:

*(Code of Iowa, Sec. 372.4)*

1. Mayor Pro Tem
2. Zoning Board of Adjustment (with Council approval)

### **15.04 COMPENSATION.**

The salary of the Mayor is thirty-six hundred dollars (\$3,600.00) per year.

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

### **15.05 VOTING.**

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

*(Code of Iowa, Sec. 372.4)*

## **CHAPTER 16 MAYOR PRO TEM**

### **16.01 Vice President of Council**

### **16.02 Powers and Duties**

### **16.03 Voting Rights**

### **16.04 Compensation**

#### **16.01 VICE PRESIDENT OF COUNCIL.**

The Mayor Pro Tem is vice president of the Council.

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

#### **16.02 POWERS AND DUTIES.**

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

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

#### **16.03 VOTING RIGHTS.**

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

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

#### **16.04 COMPENSATION.**

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

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

## CHAPTER 17 COUNCIL

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

**17.05 Appointments**  
**17.06 Compensation**  
**17.07 Eligibility for Appointment**  
**17.08 Gender Balance**  
**17.09 Council Committees**

### 17.01 NUMBER AND TERM OF COUNCIL.

The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

*(Code of Iowa, Sec. 372.4 & 376.2)*

### 17.02 POWERS AND DUTIES.

The powers and duties of the Council include, but are not limited to the following:

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

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

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

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

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

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

4. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind the City unless approved by the Council.

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

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

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

the change in compensation.

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

### **17.03 EXERCISE OF POWER.**

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars (\$100,000) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

*(Code of Iowa, Sec. 380.4)*

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

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

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

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

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

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

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

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

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

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

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

- E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen (14) days after the date of passage, unless a subsequent effective

date is provided within the ordinance or amendment.

*(Code of Iowa, Sec. 380.6[3])*

"All of the members of the Council" refers to all of the seats of the Council including a vacant seat and a seat where the member is absent, but does not include a seat where the Council member declines to vote by reason of a conflict of interest.

*(Code of Iowa, Sec. 380.4)*

#### **17.04 COUNCIL MEETINGS.**

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

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

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

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

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

#### **17.05 APPOINTMENTS.**

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

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

### **17.06 COMPENSATION.**

The salary of each Council member is fifty dollars (\$50.00) for each regular meeting and twenty-five dollars (\$25.00) per special or committee meeting of the Council attended.

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

### **17.07 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 is elected.

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

### **17.08 GENDER BALANCE.**

1. The Iowa Code requires that all appointive boards, commissions, committees and councils of the State established by the Code, if not otherwise provided by law, shall be gender balanced. No person shall be appointed or reappointed to any board, commission, or committee established by the Code 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 such 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.
2. All appointive boards, commissions, and committees of the City, if not otherwise provided by law, shall be gender balanced as provided in subsection 1 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 subsection, the City shall utilize a fair and unbiased method of selecting the best qualified applicants. This subsection 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)*

### **17.09 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 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.

## **CHAPTER 18 - CITY CLERK**

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

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

### **18.01 APPOINTMENT AND COMPENSATION.**

At its first meeting in January following the regular city election the Council shall appoint by majority vote a City Clerk to serve for a term of two (2) years. The Clerk shall receive such compensation as established by resolution of the Council. The clerk serves at the pleasure of the Council, subject to removal pursuant to Section 372.15 of the Code of Iowa.

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

### **18.02 POWERS AND DUTIES: GENERAL.**

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

### **18.03 PUBLICATION OF MINUTES.**

The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. 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, but in all other cities, posting the statement in three public places in the city which have been permanently designated by ordinance is sufficient compliance with this subsection.

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

#### **18.04 RECORDING MEASURES CONSIDERED.**

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

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

#### **18.05 PUBLICATION.**

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

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

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

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

City Hall

Miller's Bay Store

Wahpeton Water Plant

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

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

#### **18.06 AUTHENTICATION.**

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

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

#### **18.07 CERTIFY MEASURES.**

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

*(Code of Iowa, Sec. 380.11)*

## **18.08 RECORDS.**

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

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

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

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

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

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

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

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

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

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

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

## **18.09 ATTENDANCE AT MEETINGS.**

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

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

## **18.10 ISSUE LICENSES AND PERMITS.**

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

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

### **18.11 NOTIFY APPOINTEES.**

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

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

### **18.12 ELECTIONS.**

The Clerk shall perform the duties relating to elections and nominations in accordance with Chapter 376 of the Code of Iowa.

### **18.13 CITY SEAL.**

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

## **CHAPTER 19 - CITY TREASURER**

### **19.01 Appointment 19.02 Compensation**

### **19.03 Duties of Treasurer**

#### **19.01 APPOINTMENT.**

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

#### **19.02 COMPENSATION.**

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

#### **19.03 DUTIES OF TREASURER.**

The duties of the Treasurer are as follows:

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction, including all funds received or held in custody for any board or commission or agency existing in the city created by council.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

## **CHAPTER 20 CITY ATTORNEY**

**20.01 Appointment and Compensation**  
**20.02 Attorney for City**  
**20.03 Power of Attorney**  
**20.04 Ordinance Preparation**  
**20.05 Review and Comment**  
**20.06 Provide Legal Opinion**

**20.07 Attendance at Council Meetings**  
**20.08 Prepare Documents**  
**20.09 Represent Municipal Officers and Employees.**

### **20.01 APPOINTMENT AND COMPENSATION.**

The Council shall appoint a City Attorney. The City Attorney shall receive such compensation as established by resolution of the Council. The City Attorney serves at the pleasure of the Council, subject to removal pursuant to Section 372.15 Code of Iowa.

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

### **20.02 ATTORNEY FOR CITY.**

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

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

### **20.03 POWER OF ATTORNEY.**

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

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

### **20.04 ORDINANCE PREPARATION.**

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

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

### **20.05 REVIEW AND COMMENT.**

The City Attorney shall, upon request, make a report to the Council and interested department heads, giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

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

**20.06 PROVIDE LEGAL OPINION.**

The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council Members, Superintendent of Public Works or City Clerk.

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

**20.07 ATTENDANCE AT COUNCIL MEETINGS.**

The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

**20.08 PREPARE DOCUMENTS.**

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

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

**20.09 REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.**

The City Attorney shall 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. The city attorney 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.

## **CHAPTER 21 PLANNING AND ZONING COMMISSION**

- 21.01 Planning and Zoning Commission**      **21.04 Compensation**  
**21.02 Term of Office**                              **21.05 Powers and Duties**  
**21.03 Vacancies**

### **21.01 PLANNING AND ZONING COMMISSION.**

There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

*(Ord. 141 - Feb. 13 Supp.)*

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

### **21.02 TERM OF OFFICE.**

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

*(Code of Iowa, Sec. 392.1)*

### **21.03 VACANCIES.**

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

*(Code of Iowa, Sec. 392.1)*

### **21.04 COMPENSATION.**

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

*(Code of Iowa, Sec. 392.1)*

## **21.05 POWERS AND DUTIES.**

The Commission shall have and exercise the following powers and duties:

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 414.6)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

*(Code of Iowa, Sec. 392.1)*

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

10. Comprehensive Plan. To recommend to the council, from time to time, as conditions require, amendments, supplements, changes, or modifications in the comprehensive plan prepared by it, and recommend changes to the zoning regulations.

*(Code of Iowa, Sec. 414.3 & 414.6)*

11. Plans. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.

*(Code of Iowa, Sec. 414.3 & 414.6)*



## **POLICE, FIRE AND EMERGENCIES**

### **CHAPTER 30 - CONTRACT LAW ENFORCEMENT**

#### **30.01 CONTRACT LAW ENFORCEMENT.**

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

*(Code of Iowa, 28E.30)*

## **CHAPTER 35 - FIRE PROTECTION**

### **35.01 CONTRACT.**

Pursuant to Chapter 28E of the Code of Iowa, the City has entered into a contract agreement with the City of Milford, Iowa, for fire protection and prevention within the City.

*(Code of Iowa, Sec. 28E.12)*

## **PUBLIC OFFENSES**

### **CHAPTER 45 - PUBLIC OFFENSES**

<b>45.01 Assault</b>	<b>45.14 Barbed Wire and Electric Fences</b>
<b>45.02 Harassment</b>	<b>45.15 Discharging Weapons</b>
<b>45.03 Disorderly Conduct</b>	<b>45.16 Throwing and Shooting</b>
<b>45.04 Unlawful Assembly</b>	<b>45.17 Criminal Mischief</b>
<b>45.05 Failure to Disperse</b>	<b>45.18 Defacing Proclamations or Notices</b>
<b>45.06 Urinating and Defecating</b>	<b>45.19 Unauthorized Entry</b>
<b>45.07 Distributing Dangerous Substances</b>	<b>45.20 Trespassing Prohibited</b>
<b>45.08 False Reports to or Communications With Public Safety Entities</b>	<b>45.21 Fraud</b>
<b>45.09 Refusing to Assist Officer</b>	<b>45.22 Theft</b>
<b>45.10 Harassment of Public Officers and Employees</b>	<b>45.23 Fireworks.</b>
<b>45.11 Interference With Official Acts</b>	<b>45.24 Cigarettes, Tobacco, Alternative Nicotine or Vapor Products</b>
<b>45.12 Abandoned or Unattended Refrigerators</b>	<b>45.25 Contributing to Delinquency.</b>
<b>45.13 Antenna and Radio Wires</b>	<b>45.26 Amusement Devices</b>
	<b>45.27 Drug Paraphernalia</b>
	<b>45.28 Loud, Unnecessary or Unusual Noise</b>

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

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

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

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

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

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

*(Code of Iowa, Sec. 708.1)*

#### **45.02 HARASSMENT.**

No person shall commit harassment.

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

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

*(Code of Iowa, Sec. 708.7)*

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

#### **45.03 DISORDERLY CONDUCT.**

No person shall do any of the following:

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

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

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

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

3. Abusive Language. Direct abusive epithets or make any threatening gesture which the person knows

or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

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

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

#### **45.04 UNLAWFUL ASSEMBLY.**

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

*(Code of Iowa, Sec. 723.2)*

#### **45.05 FAILURE TO DISPERSE.**

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

*(Code of Iowa, Sec. 723.3)*

#### **45.06 URINATING AND DEFECATING.**

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

#### **45.07 DISTRIBUTING DANGEROUS SUBSTANCES.**

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

the substance is deposited.

*(Code of Iowa, Sec. 727.1)*

**45.08 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.**

No person shall do any of the following:

*(Code of Iowa, Sec. 718.6)*

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

**45.09 REFUSING TO ASSIST OFFICER.**

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

*(Code of Iowa, Sec. 719.2)*

**45.10 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.**

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

*(Code of Iowa, Sec. 718.4)*

**45.11 INTERFERENCE WITH OFFICIAL ACTS.**

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

*(Code of Iowa, Sec. 719.1)*

#### **45.12 ABANDONED OR UNATTENDED REFRIGERATORS.**

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

*(Code of Iowa, Sec. 727.3)*

#### **45.13 ANTENNA AND RADIO WIRES.**

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

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

#### **45.14 BARBED WIRE AND ELECTRIC FENCES.**

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

#### **45.15 DISCHARGING WEAPONS.**

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

#### **45.16 THROWING AND SHOOTING.**

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

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

#### **45.17 CRIMINAL MISCHIEF.**

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

*(Code of Iowa, Sec. 716.1)*

#### **45.18 DEFACING PROCLAMATIONS OR NOTICES.**

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

*(Code of Iowa, Sec. 716.1)*

**45.19 UNAUTHORIZED ENTRY.**

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

**45.20 TRESPASSING PROHIBITED.**

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

*(Code of Iowa, Sec. 716.7 and 716.8)*

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

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

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

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

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

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

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

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

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

*(Code of Iowa, Sec. 716.7(2))*

**45.21 FRAUD.**

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

*(Code of Iowa, Sec. 714.8)*

**45.22 THEFT.**

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

*(Code of Iowa, Sec. 714.1)*

**45.23 FIREWORKS.**

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

1. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

*(Code of Iowa, Sec. 727.2)*

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

A. Personal Injury: \$250,000 per person

B. Property Damage: \$50,000

C. Total Exposure: \$1,000,000

*(Code of Iowa, Sec. 727.2)*

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

*(Code of Iowa, Sec. 727.2)*

#### **45.24 CIGARETTES, TOBACCO, ALTERNATIVE NICOTINE OR VAPOR PRODUCTS.**

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen years of age.
2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.
3. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under eighteen years of age does not constitute a violation under Chapter 453A.2, Code of Iowa if the individual under eighteen years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the individual's employment and the individual is employed by a person who holds a valid permit under Chapter 453A, Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products.

A person who violates this section is guilty of a misdemeanor and is subject to penalties of Iowa Code, Chapter 453A.3.

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

#### **45.25 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)*

#### **45.26 AMUSEMENT DEVICES.**

*(Code of Iowa, Sec. 99B.10C)*

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.
2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

**45.27 DRUG PARAPHERNALIA.**

*(Code of Iowa, Sec. 124.414)*

1. As used in this section "drug paraphernalia" means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:
  - A. Manufacture a controlled substance.
  - B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.
  - C. Test the strength, effectiveness or purity of a controlled substance.
  - D. Enhance the effect of a controlled substance.

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

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

**45.28 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.

The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device 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.



## **NUISANCES AND ANIMAL CONTROL**

### **CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE**

**50.01 Definition of Nuisance**  
**50.02 Nuisances Enumerated**  
**50.03 Other Conditions**  
**50.05 Nuisance Abatement**  
**50.06 Notice to Abate Contents**  
**50.07 Method of Service**  
**50.08 Request for Hearing**  
**50.09 Abatement in Emergency**

**50.10 Abatement by City**  
**50.11 Collection of Costs**  
**50.12 Installment Payment of Cost of Abatement**  
**50.13 Failure to Abate**  
**50.14 Municipal Infraction Abatement Procedure**  
**50.15 Control of Vegetation**

#### **50.01 DEFINITION OF NUISANCE.**

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

*(Code of Iowa, Sec. 657.1)*

#### **50.02 NUISANCES ENUMERATED.**

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

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

*(Code of Iowa, Sec. 657.2(1))*

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

*(Code of Iowa, Sec. 657.2(2))*

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

*(Code of Iowa, Sec. 657.2(3))*

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

*(Code of Iowa, Sec. 657.2(4))*

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

*(Code of Iowa, Sec. 657.2(5))*

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

*(Code of Iowa, Sec. 657.2(6))*

7. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. (See also Section 62.07)

*(Code of Iowa, Sec. 657.2(7))*

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

*(Code of Iowa, Sec. 657.2(9))*

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

*(Code of Iowa, Sec. 657.2(10))*

10. Weeds, Brush. Dense growth of all weeds, 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 subsection, all growths of grass or weeds in excess of eight (8) inches in height shall be deemed to be a nuisance. Exempt from this subsection are growths used primarily for educational and/or research purposes, so long as the growths are controlled. (See also Section 50.15 in this Chapter)

*(Code of Iowa, Sec. 657.2(11))*

11. Dutch Elm Disease. Trees infected with Dutch Elm Disease. (See also Chapter 52)

*(Code of Iowa, Sec. 657.2(12))*

12. Standing Water. Allowing or permitting land to remain in such a condition as to allow stagnant, standing water.

13. Community Standard. A house, building or land, visible from any public place or private premises, remaining in an unclean or disorderly condition and to a standard not conforming with other orderly premises in that vicinity.

14. Diminution of Property Values. Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.
15. Construction Site Litter. 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.
16. Abandoned Objects. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans or containers.
17. Compost Pile. 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.
18. Animal Control. Subject to Section 55.05 of this Code of Ordinances, 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 and ponies.
19. Rock and Earth Slides. 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 does not apply to accumulations or piles of snow or to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.)
20. The making available of food, salt, mineral blocks or other products for ingestion by wild or stray animals, except that the following actions shall not be considered a nuisance:
  - A. Elevated bird/squirrel feeders providing seed, grain, fruit, worms or suet for birds or squirrels.
  - B. Standing crops planted and left standing as food plots for wildlife.
  - C. Grain or other feed scattered or distributed solely as a result of normal agricultural, gardening, or soil stabilization practices.
  - D. Standing, flooded, or manipulated natural vegetation or food/seed deposited by natural vegetation.

***(Ord. 134 - Mar. 11 Supp.)***

21. 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.
22. Dead Animals and Other Contaminated Material. Carcasses of animals remaining exposed and unburied six hours after death, or green or slated hides left or deposited in any open or public places; the storage, collection, discharge or depositing of any liquid waste, offal, filth, garbage, refuse, dead animals, or contaminated material in any private or public place so as to threaten the health or safety of or which is offensive to the senses of any individual or the public, or which is conducive to the breeding and harborage of flies, rats, or other vermin. Game animals being processed according to Iowa Department of Natural Resources regulations are exempted.

23. Disposal of Dead Animals. The disposal of dead animals by means other than by rendering, by burying at least three feet under the surface of the ground, or by transportation to and disposal at the Northern Plains Regional Landfill.
24. Deposits on Parking. The deposit or storage of any garbage or refuse containers, brush, rubbish, grass, rocks, building materials, incinerators, or any other debris or materials on the parking or area between the sidewalk and the curb of any street, except for a period not to exceed 24 hours while awaiting removal by garbage or refuse haulers. (See also Chapters 105 and 106)
25. Rats and Other Vermin. An infestation of rats or other vermin in or upon any premises.
26. Spreading Disease. The exposure of any person to any communicable disease by unlawful act or practice.
27. Unlawful Manufacture of Drugs. The unlawful manufacture, formulation, sale, distribution, and/or use of drugs, medication, devices, materials and/or chemicals.
28. Attractive Nuisance. Failure to secure areas, building, or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance to children.
29. Debris, Refuse, Rubbish, Trash. Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels (excluding burn barrels and solid waste collection barrels awaiting pickup), bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, pallets, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly or systematically, flammable materials, garbage, gasoline, grass, household furniture, discarded or broken or abandoned toys, iron and other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paper, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, roof shingles, rubber, sawdust, slag slop, soot, straw, sweepings, tacks, tarpaulins not in good repair, tires (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property or adversely affect the use and habitability of nearby property and of property within the City as a whole. Foliage and shrub clippings or cuttings, leaves, brush and fallen tree limbs or debris, firewood and other yard waste may be stored in piles in a rear yard not less than two (2) feet from a lot line and should be stored temporarily pending disposal or when used for mulch or composting or firewood.
30. Furniture, Fixtures and Appliances Outdoors. Any furniture, fixture, and appliance, including sofas, divans, recliners, toilets, bathtubs, sinks and similar objects that are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway, or public right-of-way.
31. Miscellaneous. Any act done or committed or suffered to be done or committed by any person — or any substance or thing kept, maintained, placed, or found in or on any public or private place — which is annoying or damaging or injurious or dangerous to the public health or welfare or safety, and every

act or thing done, permitted, maintained, allowed, or continued on any property, public or private, by any person, which is liable to or does endanger, annoy, damage, or injure any person or inhabitant of the City or property of said person or inhabitant.

32. Vehicle Parts. Storage (other than in an enclosed building) on private property that is residentially zoned of any two or more vehicle parts, including (but not limited to) bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.
33. Storage on Trailers or Trucks. The storage of anything on an unenclosed trailer, pickup, truck box, or like vehicles shall be treated in the same manner as storage outside of an enclosed structure. Coverage with a tarp is not considered enclosed.
34. Other Nuisances. Any matter, thing, substance, or condition within the City deemed to be a nuisance in Chapter 657 of the *Code of Iowa*, or defined as a public nuisance in Chapter 657A of the *Code of Iowa*, or its successor provisions of either of the chapters.

#### **50.03 OTHER CONDITIONS.**

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

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

#### **50.04 NUISANCES PROHIBITED.**

The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

*(Code of Iowa, Sec. 657.3)*

#### **50.05 NUISANCE ABATEMENT.**

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

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

#### **50.06 NOTICE TO ABATE CONTENTS.**

The notice to abate shall contain:

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

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

#### **50.07 METHOD OF SERVICE.**

The notice may be 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])*

#### **50.08 REQUEST FOR HEARING.**

Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

#### **50.09 ABATEMENT IN EMERGENCY.**

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

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

#### **50.10 ABATEMENT BY CITY.**

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

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

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.

### **50.11 COLLECTION OF COSTS.**

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 (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

The City may collect all associated abatement expenses in a Court of Small Claims.

### **50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT.**

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)*

### **50.13 FAILURE TO ABATE.**

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

### **50.14 MUNICIPAL INFRACTION ABATEMENT PROCEDURE.**

A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

### **50.15 CONTROL OF VEGETATION**

1. Except as provided in subparagraph B below, all property owners shall maintain their property and the abutting property outside the property owner's lot and property line and inside the curb lines of an adjacent public street, or in absence of a curb, from the traveled portion of the adjacent public street to the lot or property line at a height of not more than eight (8) inches. Property not so maintained shall be deemed a nuisance.
2. Notice Abatement; Assessment of Cost. In the event the owner of any property shall neglect or fail to comply with the preceding provisions, the City shall give notice of violation to the property owner by posting a notice on the property that the property is in violation of Section 50.15(1) of the Wahpeton City Code, and if the violation is not abated within seven (7) days of the first date of posting of the notice, the City will abate the condition and attempt to collect the cost of abatement from the property owner.

If the condition is not abated within seven (7) days of the first date notice was posted, the City shall act to control the vegetation and periodically report the cost of the abatement for each parcel of land or adjacent right-of-way through the City Council. The Council may levy and assess the reasonable

cost for abatement against the parcel and certify the same to the County Auditor to be collected in the same manner as a property tax. Alternatively, the city may pursue a small claim action or a municipal infraction citation in Magistrate's Court. When said services are performed by the City, the minimum charge shall be \$100.00, along with an additional fee of \$50.00 per hour after the first hour or any fraction thereof.

3. Portions of real estate which fall within one or more of the following classifications are exempt from the requirements of this Section 50.15:
  - a. a natural wooded area, wetland or flood plain;
  - b. native prairie or meadow area;
  - c. land that is currently used for agricultural purposes;
  - d. land areas which because of slope, obstacles or standing water are impractical or unsafe to cut or mow;
  - e. gardens, landscape features or areas of natural vegetation which are planned, defined, controlled and maintained by the property owner.

#### Notes

EDITOR'S NOTE: A suggested form of notice for the abatement of nuisances is included in the appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the Code of Iowa rather than this procedure.

## CHAPTER 51 - JUNK AND JUNK VEHICLES

### 51.01 Definitions

### 51.02 Junk and Junk Vehicles Prohibited

### 51.03 Junk and Junk Vehicles A Nuisance

### 51.04 Exceptions

### 51.05 Notice to Abate

#### 51.01 DEFINITIONS.

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

1. "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, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
3. "Junk vehicle" means any vehicle licensed or unlicensed and which has any of the following characteristics:
  - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
  - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
  - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
  - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
  - E. Inoperable. Any vehicle not in safe 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, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
  - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
  - G. Uninsured. Any vehicle not insured and not having proof of financial liability coverage.
  - 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.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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

#### **51.02 JUNK AND JUNK VEHICLES PROHIBITED.**

It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

#### **51.03 JUNK AND JUNK VEHICLES A NUISANCE.**

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

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

#### **51.04 EXCEPTIONS.**

The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other enclosed structure.

#### **51.05 NOTICE TO ABATE.**

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

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

## **CHAPTER 52 - DISEASE & DEAD TREE CONTROL**

**52.01 Dead or Diseased Tree Removal on Private Property**

**52.02 Duty to Remove**

**52.03 Inspection**

**52.04 Removal from City Property**

**52.05 Reasonable Certainty**

### **52.01 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.

### **52.02 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.

### **52.03 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 52.01 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.

### **52.04 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.

**52.05 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.

## CHAPTER 55 - ANIMAL PROTECTION AND CONTROL

### 55.01 Definitions

### 55.02 Animal Neglect

### 55.03 Livestock Neglect

### 55.04 Abandonment of Cats and Dogs

### 55.05 Livestock

### 55.06 At Large Prohibited

### 55.07 Damage or Interference

### 55.08 Annoyance or Disturbance

### 55.09 Vicious Dogs

### 55.10 Rabies Vaccination

### 55.11 Owner's Duty

### 55.12 Confinement

### 55.13 Pet Awards Prohibited

### 55.14 Wild or Dangerous Animals

### 55.15 Pets and Hobby Animals Other Than Dogs and Cats

### 55.16 Dead Animals.

### 55.17 Sanitation.

### 59.18 Animals in Motor Vehicles; Rescue.

### 59.19 Number of Domestic Animals.

### 59.20 Females in Heat.

### 55.01 DEFINITIONS.

The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate. *(Code of Iowa, Sec. 717B.1)*
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
  - A. The sale or offer for sale of goods or services.
  - B. A recruitment for employment or membership in an organization.
  - C. A solicitation to make an investment.
  - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
  - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
  - B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.
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. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "Pet" means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

#### **55.02 ANIMAL NEGLECT.**

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

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

#### **55.03 LIVESTOCK NEGLECT.**

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

*(Code of Iowa, Sec. 717.2)*

#### **55.04 ABANDONMENT OF CATS AND DOGS.**

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

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

#### **55.05 LIVESTOCK.**

It is unlawful for a person to keep livestock within the City except in compliance with the City's zoning regulations.

#### **55.06 AT LARGE PROHIBITED.**

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

#### **55.07 DAMAGE OR INTERFERENCE.**

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

#### **55.08 ANNOYANCE OR DISTURBANCE.**

It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance

to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

**55.09 VICIOUS DOGS.**

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

**55.10 RABIES VACCINATION.**

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

*(Code of Iowa, Sec. 351.33)*

**55.11 OWNER'S DUTY.**

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

*(Code of Iowa, Sec. 351.38)*

**55.12 CONFINEMENT.**

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

*(Code of Iowa, Sec. 351.39)*

**55.13 PET AWARDS PROHIBITED.**

*(Code of Iowa, Ch. 717.E)*

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair event.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

**55.14 WILD OR DANGEROUS ANIMALS.**

1. Wild Animals Prohibited. No person shall harbor, maintain or keep a wild, dangerous or undomesticated animal within the City, except as hereinafter provided.
2. Definitions. A wild, dangerous or undomesticated animal shall be that which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not considered in this definition. This definition of said animals shall include, but not be limited to:

All poisonous animals, including rear-fang snakes

Alligators and crocodiles, thirty inches (30") in length or more

Apes (chimpanzees, gibbons, gorillas, orangutans and siamangs)

Baboons

Bears

Bison

Cheetahs

Constrictor snakes

Coyotes Deer

Gamecocks and other fighting birds

Hippopotami  
Hyenas  
Jaguars  
Leopards Lions  
Lynxes  
Monkeys  
Ostriches  
Piranha fish  
Pumas, also known as cougars, mountain lions and panthers  
Rhinoceroses  
Sharks  
Snow leopards  
Tigers  
Wolves

Vicious animals, meaning any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

3. Exceptions. The provisions of subsections 1 and 2 of this section shall not apply to retail establishments, zoological gardens, circuses and zoos if:
  - A. The animals' location conforms to the provisions of the Zoning Ordinance of the City.
  - B. All animals and animal quarters are kept in a clean and sanitary condition and so maintained so to eliminate objectionable odors.
  - C. Animals are maintained in quarters so constructed as to prevent their escape.
  - D. No person lives or resides within one hundred feet (100?) of the quarters in which the animals are kept.
4. Vicious Animals.
  - A. The term "vicious animal" means:
    - (1) Any animal which has attacked a human being or domestic animal one or more times without provocation;
    - (2) Any animal with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
    - (3) Any animal that has been trained for fighting or is owned or kept for such purposes;
    - (4) Any animal trained to attack human beings, upon command or spontaneously, in response

to human activities, except dogs owned by or under the control of the police department, a law enforcement agency of the State or the United States or of a branch of the armed forces of the United States.

- B. Any "vicious animal," as defined herein, found at large in the City of Wahpeton, may be seized by any police officer or humane officer and, upon establishment to the satisfaction of the magistrate of the vicious character of said animal, it may be killed by a police officer or licensed veterinarian.
- C. If a vicious animal is so dangerous that it cannot be safely apprehended, it may be immediately destroyed by any police officer or humane officer.

*(Section 55.15 - Ord. 142 - Feb. 13 Supp.)*

### **55.15 PETS AND HOBBY ANIMALS.**

1. Definitions. For purposes of this section, the following terms shall mean:
  - A. **AT LARGE:** An animal that is off the premises of the owner and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.
  - B. **BIRDS:** Parakeets, pigeons, birds of prey, pheasants, quail and other similar birds that are kept as pets or for hobby purposes. Chickens, geese and ducks are considered "farm animals" and may not be kept as household pets.
  - C. **FISH AND AMPHIBIANS:** Shall include frogs, toads and aquatic animals that are kept as pets or for hobby purposes.
  - D. **HOUSEHOLD PETS AND HOBBY ANIMALS:** "Mammals", "birds", fish, amphibians, arachnids, insects, and "reptiles" as specifically defined in this section.
  - E. **MAMMALS:** Rabbits, ferrets, mongoose, mink and similar small animals, and potbellied pigs that are kept as pets or for hobby purposes.
  - F. **OWNER:** Any person having temporary or permanent custody of, sheltering, having charge of, harboring, exercising control over or having property rights to any animal covered by this section.
  - G. **REPTILES:** Nonconstrictor snakes, lizards, geckos, salamanders, chameleons, iguanas, alligators and crocodiles less than thirty inches (30") in length, and similar reptiles that are kept as pets or for hobby purposes and that are not prohibited under the provisions of Section 55.15 of this chapter.
  - H. **UNDER RESTRAINT:** That an animal is secured by a leash or lead or under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.
2. Permitted Household Pets and Hobby Animals. "Household pets and hobby animals", as defined in subsection 1 of this section, may be kept within the City only in compliance with subsections 3, 4, 5 and 6 of this section.

3. Limitation on the Number of Animals.
  - A. There shall be no numerical limitation on the number of animals described in subsection 1 of this section that are kept and maintained exclusively within the residence of the owner.
  - B. The following animals may be kept on residential premises outside the residence of the owner, but shall be subject to the following numerical limitations, which shall be the maximum number of animals permitted at any single location at any one time.
    - (1) Mammals of a maximum weight not exceeding ten (10) pounds, no more than ten (10) in number.
    - (2) Mammals exceeding ten (10) pounds in weight, no more than six (6) in number.
    - (3) Fish and amphibians, no more than fifty (50) in number.
    - (4) Birds, no more than thirty (30) in number.
4. Sanitation.
  - A. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any property, except the premises of the owner, unless such owner immediately removes and disposes of all deposits by such animals.
  - B. No person owning, harboring, keeping, or in charge of an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor.
  - C. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
5. Nuisances. No person shall keep animals subject to the provisions of this section which cause a "public nuisance". A "public nuisance" shall include:
  - A. Any animal that is repeatedly found at large.
  - B. Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
  - C. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
  - D. Any animal, whether or not on the property of its owner, that, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons on a public right of way.
  - E. Any animal that attacks domestic animals.
  - F. Any animal that causes unsanitary conditions in enclosures or surrounding where the animal

is kept.

- G. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single location, or the inadequacy of the facilities.
  - H. Any animals kept for commercial purposes.
6. 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:
- A. The advertising of animals for sale.
  - B. The continuing periodic sale of animals.
  - C. Keeping animals in excess of the numerical limits established under subsection 3 of this section.
  - D. Licensing, registration or certification of the keeper of such animals as a "dealer".
  - E. The holding of an Iowa sales tax permit related to the sale of animals.
  - F. Reporting activities in connection with such animals as a business on any legally required document, report, or tax return.
  - G. Any other factors that indicate commercial activity.

*(Section 55.16 - Ord. 142 - Feb. 13 Supp.)*

#### **55.16 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.

#### **55.17 SANITATION.**

It is unlawful for any owner, keeper or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper or walker does not immediately thereafter remove and/or cleanup said animal's feces from the public or private property. In addition, it is unlawful for the owner or person in charge of any dog, cat or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. No owner shall allow waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor. Wastes on owner, keeper or harbors property shall be cleaned up and properly disposed of at least once every 24 hours. The provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

**59.18 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.

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.

**59.19 NUMBER OF DOMESTIC ANIMALS.**

The total number of cats and dogs older than three (3) months shall not exceed six (6) per residence or place of business (excluding bona pet stores, animal grooming shop, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of twelve (12) weeks of age.

**59.20 FEMALES IN HEAT.**

The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage/kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding. Furthermore, any female animal in estrus shall be deemed at large at any time except:

- a. When housed in a building which is completely enclosed;
- b. When housed in a veterinary hospital or boarding kennel licensed or registered with the State;
- c. When on the premises of the owner, provided the area in which such animal is located is completely enclosed by a fence or other structure having a height of at least sixty (60) inches; or
- d. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.



## TRAFFIC AND VEHICLES

### CHAPTER 60 ADMINISTRATION OF TRAFFIC CODE

**60.01 Title**

**60.02 Definitions**

**60.03 Administration and Enforcement**

**60.04 Power to Direct Traffic**

**60.05 Traffic Accidents: Reports**

**60.06 Peace Officer's Authority**

**60.07 Obedience to Peace Officers**

**60.08 Parades Regulated**

#### **60.01 TITLE.**

Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Wahpeton Traffic Code."

#### **60.02 DEFINITIONS.**

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

*(Code of Iowa, Sec. 321.1)*

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in section 801.4 Code of Iowa.

*(Code of Iowa, Sec. 321.1 (50))*

4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.  
*(Code of Iowa Sec. 321.1 (46))*
11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.  
*(Code of Iowa Sec. 321.1 (90))*

### **60.03 ADMINISTRATION AND ENFORCEMENT.**

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

### **60.04 POWER TO DIRECT TRAFFIC.**

A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene of a fire, 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.

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

### **60.05 TRAFFIC ACCIDENTS: REPORTS.**

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

*(Code of Iowa, Sec. 321.273 & 321.274)*

### **60.06 PEACE OFFICER'S AUTHORITY.**

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

*(Code of Iowa, Sec. 321.492)*

### **60.07 OBEDIENCE TO PEACE OFFICERS.**

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

*(Code of Iowa, Sec. 321.229)*

## **60.08 PARADES REGULATED.**

No person shall conduct or cause any parade on any street except as provided herein:

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.
3. Parade Not A Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Peace Officers and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

## **CHAPTER 61 - TRAFFIC CONTROL DEVICES**

### **61.01 Installation.**

### **61.02 Crosswalks.**

### **61.03 Traffic Lanes.**

### **61.04 Standards.**

### **61.05 Compliance.**

#### **61.01 INSTALLATION.**

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

*(Code of Iowa, Sec. 321.255)*

#### **61.02 CROSSWALKS.**

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

*(Code of Iowa, Sec. 372.13[4] & 321.255)*

#### **61.03 TRAFFIC LANES.**

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

*(Code of Iowa, Sec. 372.13[4] & 321.255)*

#### **61.04 STANDARDS.**

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

*(Code of Iowa, Sec. 321.255)*

#### **61.05 COMPLIANCE.**

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

*(Code of Iowa, Sec. 321.256)*

## **CHAPTER 62 - GENERAL TRAFFIC REGULATIONS**

**62.01 Violation of Regulations**  
**62.02 Vehicles on Sidewalks**  
**62.03 Clinging to Vehicle**  
**62.04 Quiet Zones**  
**62.05 Tampering With Vehicle**

**62.06 Obstructing View at Intersections**  
**62.07 Reckless Driving**  
**62.08 Open Containers in Motor Vehicles**  
**62.09 Careless Driving**

### **62.01 VIOLATION OF REGULATIONS.**

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
13. Section 321.180 – Instruction permits.
14. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.

15. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
16. Section 321.193 – Restricted licenses.
17. Section 321.194 – Special minor’s licenses.
18. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor’ License.
19. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
20. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
21. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
22. Section 321.218 - Operating without valid driver's license or when disqualified.
23. Section 321.219 – Permitting unauthorized minor to drive.
24. Section 321.220 – Permitting unauthorized person to drive.
25. Section 321.221 – Employing unlicensed chauffeur.
26. Section 321.222 – Renting motor vehicle to another.
27. Section 321.223 – License inspected.
28. Section 321.224 – Record kept.
29. Section 321.232 – Radar jamming devices; penalty.
30. Section 321.234A – All-terrain vehicles.
31. Section 321.235A – Electric personal assistive mobility devices.
32. Section 321.256 Obedience to official traffic-control devices.
33. Section 321.257 – Official traffic control signal.
34. Section 321.259 – Unauthorized signs, signals or markings.
35. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
36. Section 321.262 – Damage to vehicle.
37. Section 321.263 – Information and aid.

38. Section 321.264 – Striking unattended vehicle.
39. Section 321.265 – Striking fixtures upon a highway.
40. Section 321.275 – Operation of motorcycles and motorized bicycles.
41. Section 321.276 - Use of Electronic Communication Devices While Driving – Text Messaging.
42. Section 321.278 – Drag racing prohibited.
43. Section 321.284 – Open containers in motor vehicles – drivers.
44. Section 321.284A – Open containers in motor vehicles – passengers.
45. Section 321.288 – Control of vehicle; reduced speed.
46. Section 321.295 – Limitation on bridge or elevated structures.
47. Section 321.297 – Driving on right-hand side of roadways; exceptions.
48. Section 321.298 – Meeting and turning to right.
49. Section 321.299 – Overtaking a vehicle.
50. Section 321.302 – Overtaking and otherwise.
51. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
52. Section 321.304 – Prohibited passing.
53. Section 321.306 – Roadways laned for traffic.
54. Section 321.307 – Following too closely.
55. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
56. Section 321.309 – Towing; convoys; drawbars.
57. Section 321.310 – Towing four-wheel trailers.
58. Section 321.311 – Turning at intersections.
59. Section 321.312 – Turning on curve or crest of grade.
60. Section 321.313 – Starting parked vehicle.
61. Section 321.314 – When signal required.
62. Section 321.315 – Signal continuous.
63. Section 321.316 – Stopping.

64. Section 321.317 – Signals by hand and arm or signal device.
65. Section 321.318 – Method of giving hand and arm signals.
66. Section 321.319 – Entering intersections from different highways.
67. Section 321.320 – Left turns; yielding.
68. Section 321.321 – Entering through highways.
69. Section 321.322 – Vehicles entering stop or yield intersection.
70. Section 321.323 – Moving vehicle backward on highway.
71. Section 321.323A – Approaching certain stationary vehicles.
72. Section 321.324 – Operation on approach of emergency vehicles.
73. Section 321.324A – Funeral processions.
74. Section 321.325 – Pedestrians subject to signals.
75. Section 321.327 – Yield to pedestrians in crosswalks.
76. Section 321.328 – Pedestrian failing to use crosswalk.
77. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
78. Section 321.330 – Use of crosswalks.
79. Section 321.331 – Pedestrians soliciting rides.
80. Section 321.332 – White canes restricted to blind persons.
81. Section 321.333 – Duty of drivers.
82. Section 321.340 – Driving through safety zone.
83. Section 321.341 – Obedience to signal of train.
84. Section 321.342 – Stop at certain railroad crossings; posting warning.
85. Section 321.343 – Certain vehicles must stop.
86. Section 321.344 – Heavy equipment at crossing.
87. Section 321.344B – Immediate safety threat; penalty.
88. Section 321.354 – Stopping on traveled way.

89. Section 321.358 – Stopping, standing, or parking where prohibited.
90. Section 321.359 – Moving other vehicle.
91. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).
92. Section 321.362 – Unattended motor vehicle. (Parking without stopping engine and setting brake).
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Preventing contamination of food by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully controlled-access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – School buses.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates. Improper registration plate lamp.
112. Section 321.389 – Reflector requirement. (Improper rear reflector)
113. Section 321.390 – Reflector requirements.

114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.
118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.
122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.406 – Cowl lamps.
125. Section 321.408 – Back-up lamps.
126. Section 321.409 – Mandatory lighting equipment.
127. Section 321.415 – Required usage of lighting devices.
128. Section 321.417 – Single-beam road-lighting equipment.
129. Section 321.418 – Alternate road-lighting equipment.
130. Section 321.419 – Number of driving lamps required or permitted.
131. Section 321.420 – Number of lamps lighted.
132. Section 321.421 – Special restrictions on lamps.
133. Section 321.422 – Red light in front.
134. Section 321.423 – Flashing lights.
135. Section 321.430 – Brake, hitch and control requirements.
136. Section 321.431 – Performance ability.
137. Section 321.432 – Horns and warning devices.
138. Section 321.433 – Sirens, whistles and bells prohibited.
139. Section 321.434 – Bicycle sirens or whistles.

140. Section 321.436 – Mufflers, prevention of noise.
141. Section 321.437 – Mirrors.
142. Section 321.438 – Windshields and windows.
143. Section 321.439 – Windshield wipers.
144. Section 321.440 – Restrictions as to tire equipment.
145. Section 321.441 – Metal tires prohibited.
146. Section 321.442 – Projections on wheels.
147. Section 321.444 – Safety glass.
148. Section 321.445 – Safety belts and safety harnesses; use required.
149. Section 321.446 – Child restraint devices.
150. Section 321.449 – Motor carrier safety regulations.
151. Section 321.450 – Hazardous materials transportation.
152. Section 321.454 – Width of vehicles.
153. Section 321.455 – Projecting loads on passenger vehicles.
154. Section 321.456 – Height of vehicles; permits.
155. Section 321.457 – Maximum length.
156. Section 321.458 – Loading beyond front.
157. Section 321.459 – Excessive weight – dual axels (each over 2000 lb. over).
158. Section 321.460 – Spilling loads on highways.
159. Section 321.461 – Trailers and towed vehicles.
160. Section 321.462 – Drawbars and safety chains.
161. Section 321.463 – Maximum gross weight.
162. Section 321.465 – Weighing vehicles and removal of excess.
150. Section 321.466 – Increased loading capacity; re-registration.
151. Section 321.467 – Retractable Axels.
152. Section 321.471 – Local Authorities May Restrict.
153. Section 321.473 – Limiting Trucks – Rubbish Vehicles.

**62.02 VEHICLES ON SIDEWALKS.**

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

**62.03 CLINGING TO VEHICLE.**

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

**62.04 QUIET ZONES.**

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

**62.05 TAMPERING WITH VEHICLE.**

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

**62.06 OBSTRUCTING VIEW AT INTERSECTIONS.**

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

**62.07 RECKLESS DRIVING.**

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

*(Code of Iowa, Sec. 321.277)*

**62.09 OPEN CONTAINERS IN MOTOR VEHICLES.**

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

*(Code of Iowa, Sec. 321.284)*

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

*(Code of Iowa, Sec. 321.284A)*

As used in this section "passenger area" means the area of a motor vehicle designed to seat the driver and

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

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, motor sports recreation vehicle, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.

#### **62.10 CARELESS DRIVING.**

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

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

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

## **CHAPTER 63 – SPEED REGULATIONS**

### **63.01 General**

### **63.02 State Code Speed Limits**

### **63.03 Parks, Cemeteries and Parking Lots**

### **63.05 Minimum Speed**

### **63.06 Emergency Vehicles**

#### **63.01 GENERAL.**

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

*(Code of Iowa, Sec. 321.285)*

#### **63.02 STATE CODE SPEED LIMITS.**

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

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

#### **63.03 PARKS, CEMETERIES AND PARKING LOTS.**

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

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

#### **63.04 SPECIAL SPEED RESTRICTIONS.**

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

*(Code of Iowa, Sec. 321.290)*

- NONE –

**63.05 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)*

**63.06 EMERGENCY VEHICLES.**

The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to emergency calls and if the drivers thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

*(Code of Iowa, Sec. 321.231)*

## CHAPTER 64 TURNING REGULATIONS

### 64.01 Turning at Intersections

### 64.02 U-turns

#### 64.01 TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

*(Code of Iowa, Sec. 321.311)*

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

#### 64.02 U-TURNS.

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

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

- NONE -

## **CHAPTER 65 STOP OR YIELD REQUIRED**

**65.01 Through Streets - Stop**

**65.02 Stop or Yield Required**

**65.03 Four-Way Stop Intersections**

**65.04 School Stops**

**65.05 Stop Before Crossing Sidewalk.**

**65.06 Stop When Traffic is Obstructed**

**65.07 Yield To Pedestrians in Crosswalks**

**65.08 Vehicles Entering Yield Intersection**

### **65.01 THROUGH STREETS - STOP.**

1. Stop signs shall be placed at and every driver of a vehicle shall stop before entering an intersection with the following designated through streets:
  - A. West Street;
  - B. Lakeside Avenue;
  - C. Harpen Street;
  - D. Edgewood Drive.
2. Stop signs shall be placed to control eastbound and westbound traffic on Jerdee Lane at the intersection with Danny Avenue. Every driver of a vehicle approaching Danny Avenue from Jerdee Lane shall stop before entering the intersection.
3. A stop sign shall be placed at the intersection of 175th Street and Manhattan Boulevard to control eastbound traffic on 175th Street. Every driver of a vehicle eastbound on 175th Street shall stop before entering the intersection with Manhattan Boulevard.
4. A stop sign shall be placed to control eastbound traffic on Lighthouse Drive at the intersection with Emerson Street. Every driver of a vehicle eastbound on Lighthouse Drive shall stop before entering the intersection with Emerson Street.

*(Ord. 127 - Aug. 09 Supp.)*

5. A stop sign shall be placed at the intersection of West Street and 190th Street to control southbound traffic on West Street. Every driver of a vehicle southbound on West Street shall stop before entering the intersection of 190th Street.

*(Ord. 143 - Feb. 13 Supp.)*

### **65.02 STOP OR YIELD REQUIRED.**

Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

### **65.03 FOUR-WAY STOP INTERSECTIONS.**

Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

*(Code of Iowa, Sec. 321.345)*

- NONE -

**65.04 SCHOOL STOPS.**

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

*(Code of Iowa, Sec. 321.249)*

**65.05 STOP BEFORE CROSSING SIDEWALK.**

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

*(Code of Iowa, Sec. 321.353)*

**65.06 STOP WHEN TRAFFIC IS OBSTRUCTED.**

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

**65.07 YIELD TO PEDESTRIANS IN CROSSWALKS.**

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

*(Code of Iowa, Sec. 321.327)*

**65.08 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 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))*

## **CHAPTER 66 LOAD AND WEIGHT RESTRICTIONS**

**66.01 Temporary Embargo**  
**66.02 Permits for Excess Size and Weight**

**66.03 Load Limits Upon Certain Streets**  
**66.04 Load Limits on Bridges**

### **66.01 TEMPORARY EMBARGO.**

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

*(Code of Iowa, Sec. 321.471 & 472)*

### **66.02 PERMITS FOR EXCESS SIZE AND WEIGHT.**

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

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

### **66.03 LOAD LIMITS UPON CERTAIN STREETS.**

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

*(Code of Iowa, Sec. 321.473 & 475)*

- NONE -

### **66.04 LOAD LIMITS ON BRIDGES.**

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

*(Code of Iowa, Sec. 321.473)*

## **CHAPTER 67 PEDESTRIANS**

### **67.01 Walking in Street**

### **67.02 Hitchhiking**

### **67.03 Pedestrian Crossing**

### **67.04 Prohibition of Roller Skates and Skateboards on Harpen Street**

#### **67.01 WALKING IN STREET.**

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

*(Code of Iowa, Sec. 321.326)*

#### **67.02 HITCHHIKING.**

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

*(Code of Iowa, Sec. 321.331)*

#### **67.03 PEDESTRIAN CROSSING.**

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

*(Code of Iowa, Sec. 321.328)*

#### **67.04 PROHIBITION OF ROLLER SKATES AND SKATEBOARDS ON HARPEN STREET.**

##### **1. Definitions.**

- A. "Roller skates" includes all devices which incorporate wheels or rollers designed or intended to bear and carry the weight of a person, which have no motive power and which are intended to be moved or propelled by the physical efforts of the user or by gravity and which are attached to the feet of the user. Such devices include shoe roller skates, clamp-on roller skates, and rollerblades, but do not include bicycles.
- B. "Skateboards" includes devices incorporating wheels or rollers, which are designed or intended to bear and carry the weight of a person, which have no motive power and which are intended to be moved or propelled by the physical efforts of the user or by gravity and which are not customarily attached or physically connected to the user during use. Such devices include skateboards and scooters, but do not include bicycles.

- 2. Prohibition. No person shall use or permit the use of roller skates or skateboards on any portion of Harpen Street in the City of Wahpeton.

*(Ord. 129 - Aug. 09 Supp.)*

## **CHAPTER 68 ONE-WAY TRAFFIC**

### **68.01 ONE-WAY TRAFFIC REQUIRED.**

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

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

- NONE -

## **CHAPTER 69 PARKING REGULATIONS**

**69.01 Parking Limited or Controlled**

**69.02 Park Adjacent to Curb**

**69.03 Park Adjacent to Curb - One-Way Street**

**69.04 Angle Parking**

**69.05 Angle Parking - Manner**

**69.06 Parking for Certain Purposes Illegal**

**69.07 Parking Prohibited**

**69.08 Persons With Disabilities Parking**

**69.09 Truck Parking Limited**

**69.10 Snow Removal**

### **69.01 PARKING LIMITED OR CONTROLLED.**

Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

### **69.02 PARK ADJACENT TO CURB.**

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

*(Code of Iowa, Sec. 321.361)*

### **69.03 PARK ADJACENT TO CURB - ONE-WAY STREET.**

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

*(Code of Iowa, Sec. 321.361)*

### **69.04 ANGLE PARKING.**

Angle or diagonal parking is permitted only in the following locations:

*(Code of Iowa, Sec. 321.361)*

- NONE -

**69.05 ANGLE PARKING - MANNER.**

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

*(Code of Iowa, Sec. 321.361)*

**69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL.**

No person shall park a vehicle upon public property for more than forty-eight (48) hours or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the Code of Ordinances.
5. Nonsell-Propelled Vehicles or Equipment: No person shall park or store a trailer, camper, or other nonsell-propelled vehicle or equipment on any street or municipal parking lot in the city.

The prohibition of this section shall not apply if the trailer, camper or other equipment is properly connected to a self-propelled vehicle and is promptly movable.

**69.07 PARKING PROHIBITED.**

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

1. Crosswalk. On a crosswalk.

*(Code of Iowa, Sec. 321.358 [5])*

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

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

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

4. Sidewalks. On or across a sidewalk.

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

5. Driveway. In front of a public or private driveway.  
*(Code of Iowa, Sec. 321.358 [2])*
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.  
*(Code of Iowa, Sec. 321.358 [3])*
7. Fire Hydrant. Within five (5) feet of a fire hydrant.  
*(Code of Iowa, Sec. 321.358 [4])*
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.  
*(Code of Iowa, Sec. 321.358 [6])*
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.  
*(Code of Iowa, Sec. 321.358 [8])*
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.  
*(Code of Iowa, Sec. 321.358 [9])*
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.  
*(Code of Iowa, Sec. 321.358 [10])*
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.  
*(Code of Iowa, Sec. 321.358 [11])*
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.  
*(Code of Iowa, Sec. 321.358 [13])*
14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.  
*(Code of Iowa, Sec. 321.360)*
15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the

driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

### **69.08 PERSONS WITH DISABILITIES PARKING.**

The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.
2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

- A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;
- B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;
- C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.
  3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
    1. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A (1) of the Code of Iowa when utilizing a wheelchair parking cone.
    2. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A (1) of the Code of Iowa.

### **69.09 TRUCK PARKING LIMITED.**

No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached weighing six (6) tons or more, loaded or empty, on any City streets.

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

**69.10 SNOW REMOVAL.**

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

*(Code of Iowa, 321.236[1])*

## CHAPTER 70 TRAFFIC CODE ENFORCEMENT PROCEDURES

**70.01 Arrest or Citation**  
**70.02 Scheduled Violations**  
**70.03 Parking Violations: Vehicle Unattended**

**70.04 Presumption in Reference To Illegal Parking**  
**70.05 Impounding Vehicles**

### **70.01 ARREST OR CITATION.**

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

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

*(Code of Iowa, Sec. 805.6 & 321.485)*

### **70.02 SCHEDULED VIOLATIONS.**

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

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

### **70.03 PARKING VIOLATIONS: VEHICLE UNATTENDED.**

When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the citation as herein provided shall be attached to the vehicle in a conspicuous place.

### **70.04 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.**

In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

## **70.05 IMPOUNDING VEHICLES.**

A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

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

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

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

## CHAPTER 75 ALL-TERRAIN VEHICLES AND SNOWMOBILES

### 75.01 Purpose

### 75.02 Definitions.

### 75.03 General Regulations

### 75.04 Operation of Snowmobiles

### 75.05 Operation of All-Terrain Vehicles and Off-Road Utility Vehicles

### 75.06 Hours of Operation

### 75.07 Negligence

### 75.08 Accident Reports

### 75.09 Towing.

### 75.10 Dead Man Throttle

### 75.01 PURPOSE.

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

### 75.02 DEFINITIONS.

For use in this chapter the following terms are defined:

- 1.a. *“All-terrain vehicle”* or “ATV” means a motorized vehicle with not less than three and not more than six nonhighway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- 1.b. *“Off-road motorcycles”* shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to Code of Iowa chapter 321. An operator of an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in Code of Iowa 321I., but is exempt from the education instruction and certification program requirements of Code of Iowa sections 321I.25 and 321I.26.

*(Code of Iowa, Sec. 321I.1 [1])*

2. *“Off-road utility vehicle”* UTV” means a motorized vehicle with not less than four and not more than eight nonhighway tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. *“Off-road utility vehicle”* includes the following vehicles:
  - (1) *“Off-road utility vehicle — type 1”* means an off-road utility vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
  - (2) *“Off-road utility vehicle — type 2”* means an off-road utility vehicle, other than a type 1 off-road utility vehicle, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.
  - (3) *“Off-road utility vehicle — type 3”* means an off-road utility vehicle with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.

- b. The operator of an off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles in Code of Iowa, section 321.234A and Code of Iowa, Chapter 321.I., and administrative rules, but is exempt from the education instruction and certification program requirements of Code of Iowa, sections 321I.25 and 321I.26. An operator of an off-road utility vehicle shall not operate the vehicle on a designated riding area or designated riding trail unless the department has posted signage indicating the riding area or trail is open to the operation of off-road utility vehicles. Off-road utility vehicles are subject to the dealer registration and titling requirements of Code of Iowa, Chapter 321.I. A motorized vehicle that was previously titled or is currently titled under Code of Iowa, Chapter 321 shall not be registered or operated as an off-road utility vehicle.

(Code of Iowa 321I.1 (17))

3. *"Snowmobile"* means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. *"Snowmobile"* does not include an all-terrain vehicle, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, 321G.1(27))

4. "Street" or Highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular travel, except in public areas in which the boundary shall be thirty-three feet each side of the center line of the roadway. Includes roadway, alley, or trail used for vehicular traffic including a state or county highway.

#### **75.03 GENERAL REGULATIONS.**

No person shall operate an ATV or UTV within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

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

#### **75.04 OPERATION OF SNOWMOBILES.**

The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season, and which have snow or ice cover of at least four (4) inches, and on such other streets as may be designated by resolution of the Council.

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

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

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time

when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

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

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

4. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least four (4) inches.

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

6. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.

#### **75.05 OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES.**

The operators of ATVs or UTVs shall comply with the following restrictions as to where ATVs or UTVs may be operated within the City:

1. Streets. Vehicles may be operated on City streets in accordance with Section 321.234A of the Code of Iowa. All-terrain vehicles may also be operated on City streets, except Highway 86, pursuant to subsection 7 below.

*(Ord. 137 - Mar. 11 Supp.)*

*(Code of Iowa, Sec. 321I.10[1 & 3])*

2. Trails. Vehicles shall not be operated on snowmobile or other trails except as otherwise designated.

*(Ord. 137 - Mar. 11 Supp.)*

*(Code of Iowa, Sec. 321I.10[4])*

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

4. Sidewalk or Parking. ATVs or UTVS shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.
5. Private Property. No ATV or UTV shall be operated upon private property without the express consent of the owner thereof.
6. A. ATV or UTV vehicles may be operated on City streets only if equipped with a safety flag. The safety flag shall extend not less than five feet above the ground, shall have an area of not less than thirty square inches and be Day-Glo in color.  
 B. ATV or UTV vehicles may be operated on City streets only from sunrise to sunset, unless the vehicle is equipped with lights as required by State law for a motor vehicle. If so equipped, such vehicles may be operated at any time of the day or night.
7. Motor Vehicle License. No person shall operate ATV or UTV vehicle on the streets of the City unless the operator holds a valid motor vehicle operator's license.
8. Traffic Control Regulations. Operators of ATV or UTV vehicles must observe all State and local traffic control regulations and devices and shall not operate such vehicles at speeds in excess of applicable limits, nor at a speed that is greater than is reasonable and proper under the existing conditions. In no event shall such vehicles be operated at a speed greater than 35 miles per hour.
9. Unattended Vehicles and Parking. No operator of an ATV or UTV vehicle shall leave a vehicle unattended on public property with the engine running, or with keys in the ignition switch. Operators of such vehicles shall obey all parking regulations of the City.
10. Registration. The owner or operator of an ATV or UTV vehicle must maintain current vehicle registration as required by Iowa law.

*(Subsections 7 through 11 Added by Ordinance No. 137 - Mar. 11 Supp.)*

#### **75.06 HOURS OF OPERATION.**

No snowmobile shall be operated in the City between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. except for emergency situations or for loading and unloading from a transport trailer.

#### **75.07 NEGLIGENCE.**

The owner and operator of an ATV, UTV, or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV, UTV, or snowmobile. The owner of an ATV, UTV, or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV, UTV, or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV, UTV, or snowmobile at the time the injury or damage occurred. The owner or operator of an all-terrain vehicle must maintain and provide current proof of financial responsibility in accordance with Iowa Code Section 321.20B.

*(Ord. 137 - Mar. 11 Supp.)*

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

#### **75.08 ACCIDENT REPORTS.**

Whenever an ATV, UTV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

#### **75.09 TOWING.**

No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

#### **75.10 DEAD MAN THROTTLE.**

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

## **CHAPTER 76 BICYCLE REGULATIONS**

**76.01 Scope of Regulations**

**76.02 Traffic Code Applies**

**76.03 Double Riding Restricted**

**76.04 Two Abreast Limit**

**76.05 Bicycle Paths**

**76.06 Speed**

**76.07 Emerging From Alley or Driveway**

**76.08 Carrying Articles**

**76.09 Riding on Sidewalks**

**76.10 Towing**

**76.11 Improper Riding**

**76.12 Parking**

**76.13 Equipment Requirements**

**76.14 Special Penalty**

### **76.01 SCOPE OF REGULATIONS.**

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

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

### **76.02 TRAFFIC CODE APPLIES.**

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

*(Code of Iowa, Sec. 321.234)*

### **76.03 DOUBLE RIDING RESTRICTED.**

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

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

### **76.04 TWO ABREAST LIMIT.**

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

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

### **76.05 BICYCLE PATHS.**

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

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

**76.06 SPEED.**

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

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

**76.07 EMERGING FROM ALLEY OR DRIVEWAY.**

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

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

**76.08 CARRYING ARTICLES.**

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

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

**76.09 RIDING ON SIDEWALKS.**

The following shall apply to riding bicycles on sidewalks:

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

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

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

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

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

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

**76.10 TOWING.**

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

**76.11 IMPROPER RIDING.**

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

## **76.12 PARKING.**

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

## **76.13 EQUIPMENT REQUIREMENTS.**

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

*(Code of Iowa, Sec. 321.397)*

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

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

## **76.14 SPECIAL PENALTY.**

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

## CHAPTER 80 - ABANDONED VEHICLES

### 80.01 Definitions

### 80.02 Authority to Take Possession of Abandoned Vehicles

### 80.03 Notice by Mail

### 80.04 Notification in Newspaper

### 80.05 Fees for Impoundment

### 80.06 Disposal of Abandoned Vehicles

### 80.07 Disposal of Totally Inoperable Vehicles

### 80.08 Proceeds From Sales

### 80.09 Duties of Demolisher

## 80.01 DEFINITIONS.

For use in this chapter the following terms are defined:

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

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

## **80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.**

A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

## **80.03 NOTICE BY MAIL.**

The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

## **80.04 NOTIFICATION IN NEWSPAPER.**

If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

### **80.05 FEES FOR IMPOUNDMENT.**

The owner, lienholder or claimant shall pay one hundred dollars (\$100.00) 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 towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

### **80.06 DISPOSAL OF ABANDONED VEHICLES.**

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

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

### **80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.**

The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate within thirty (30) days of receipt of the certificate of authority and shall surrender the certificate of authority in lieu of the certificate of title.

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

### **80.08 PROCEEDS FROM SALES.**

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

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

### **80.09 DUTIES OF DEMOLISHER.**

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

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

## **CHAPTER 81 - GOLF CARTS**

### **81.01 Purpose.**

### **81.02 Definition.**

### **81.03 Drivers.**

### **81.04 Hours of Operation.**

### **81.05 Safety.**

### **81.06 Prohibitions.**

### **81.07 Rules of Operation.**

### **81.08 Financial Responsibility.**

#### **81.01 PURPOSE.**

In order to facilitate and allow the safe operation of golf carts upon streets within the City, it is necessary to enact rules and regulations for the operation thereof.

#### **81.02 DEFINITION.**

For purposes of this chapter, the phrase "golf cart" shall mean any vehicle with three (3) or more wheels, powered either by electricity or an internal combustion engine, which is used and designed primarily for the transportation of golfers and golf clubs upon golf courses.

#### **81.03 DRIVERS.**

Any person operating a golf cart upon designated City streets shall be at least sixteen (16) years old and possess a valid motor vehicle operator's license issued by the Iowa Department of Transportation.

#### **81.04 HOURS OF OPERATION.**

Golf carts may be operated upon designated City streets only from sunrise to sunset, unless the golf cart is equipped with lights as required by State law for a motor vehicle. If so equipped, such a golf cart may be operated at any time of the day or night.

#### **81.05 SAFETY.**

Any golf cart operated upon designated City streets shall be equipped with a slow-moving vehicle sign on the back thereof as well as a bicycle safety flag, and all carts shall have adequate brakes. A golf cart operated upon a designated City street only for the purpose of crossing the street at or near a right angle, and not otherwise operated upon a City street, shall not be required to be equipped with a slow-moving vehicle sign and a bicycle safety flag, as otherwise herein required.

#### **81.06 PROHIBITIONS.**

Golf carts may be operated on all City streets and public rights-of-way, except 175th Street, 180th Street and Highway 86. Golf carts shall be allowed to cross a City street which is a primary road extension by the most direct route. Golf carts are prohibited from operation on trails.

### **81.07 RULES OF OPERATION.**

Drivers of golf carts upon designated City streets shall be subject to all applicable provisions of Chapter 321 of the Code of Iowa, as subsequently amended, and any violation of the applicable provisions of said chapter shall also constitute a violation of the Wahpeton City Code. In addition, drivers of golf carts operated shall be subject to the following additional rules:

1. Except when executing a left turn, golf carts shall be driven as close as practicable to the right-hand edge of any road;
2. Golf carts must yield the right-of-way to other motor vehicles at all uncontrolled intersections regardless of the dictates of Section 321.319 of the Code of Iowa.
3. Golf carts shall not be parked upon streets.
4. When necessary to prevent congestion of traffic, golf carts shall be pulled to the right-hand edge of streets and be stopped to allow other motor vehicles traveling in the same direction to pass.
5. When two (2) or more golf carts are being operated in the same direction and general vicinity, they shall proceed in a single file.

### **81.08 FINANCIAL RESPONSIBILITY.**

Each owner of a golf cart operated on City streets shall provide proof of financial responsibility in accordance with Chapter 321A, Code of Iowa.

*(Ch. 81 - Ord. 136 - Mar. 11 Supp.)*

## CHAPTER 83 – RECREATIONAL VEHICLES

- |              |                                    |              |  |
|--------------|------------------------------------|--------------|--|
| <b>82.01</b> | <b>Definition.</b>                 | <b>83.05</b> | <b>No Business Use.</b>                |
| <b>82.02</b> | <b>Parking for Seasonal Use.</b>   | <b>83.06</b> | <b>Occupied Recreational Vehicles.</b> |
| <b>82.03</b> | <b>Storage Parking.</b>            | <b>83.07</b> | <b>Exemption.</b>                      |
| <b>83.04</b> | <b>Registration and Licensing.</b> |              |  |

### **82.01 DEFINITION.**

For purposes of this chapter, the term “Recreational Vehicle” includes: travel trailers, camping trailers, motor homes, converted trucks and buses, boats and boat trailers, snowmobile and motorcycle trailers and general purposes trailers (open or closed). The term “Recreational Vehicle” does not include a self-propelled motor vehicle regularly used for family or commercial transportation purposes.

### **82.02 PARKING FOR SEASONAL USE.**

Recreational Vehicles may be parked during a season of use on a driveway, provided that the vehicle does not block or obstruct the view of vehicles entering and leaving the property or vehicles approaching a nearby intersection. Recreational Vehicles shall not be parked on the public right-of-way between 9:00 pm and 7:00 am.

### **82.03 STORAGE PARKING.**

Recreational Vehicles which are not being regularly used or are being stored during the off season, may be stored in a side, rear yard, or in an inconspicuous location. Recreational Vehicles shall not be stored nearer than two (2) feet to any lot line.

### **82.04 REGISTRATION AND LICENSING.**

All Recreational Vehicles which are registered with and licensed by the State of Iowa shall be kept in good repair and working condition with current license plates and registration stickers affixed. Non-operating or non-registered Recreational Vehicles stored for more than thirty (30) days shall be considered a nuisance.

### **82.05 NO BUSINESS USE.**

Recreational Vehicles shall not be used for business purposes in any zoning district.

### **82.06 OCCUPIED RECREATIONAL VEHICLES.**

Occupied Recreational Vehicles may be parked and occupied on private property no longer than seven (7) consecutive days at a time and no more than fourteen (14) days in the calendar year. Only one (1) occupied Recreational Vehicle and one (1) tent shall be allowed at one time on a residential lot. When Recreational Vehicles are occupied, the property owner shall notify the City Clerk or Zoning Officer of the period of occupancy. If complaints are received by the City arising from the occupancy of a Recreational Vehicle or tent, the City reserves the right to restrict occupancy of Recreational Vehicles or tents.

**82.07 EXEMPTION.**

Recreational Vehicles that are stored in an enclosed structure are exempt from the provisions of this chapter.

*(Ord. 153 – Aug. 15) (Ordinance 153 Created Chapter 82 – Recreational Vehicles).*



## **WATER**

### **CHAPTER 90 - WATER SERVICE SYSTEM**

#### **90.01 Definitions**

#### **90.02 Superintendent's Duties**

#### **90.03 Mandatory Connections**

#### **90.04 Abandoned Connection**

#### **90.05 Permit**

#### **90.06 Fee for Permit.**

#### **90.07 Compliance With Plumbing Code**

#### **90.08 Plumber Required**

#### **90.09 Excavations**

#### **90.10 Tapping Mains**

#### **90.11 Installation of Water Service Pipe**

#### **90.12 Responsibility For Water Service Pipe**

#### **90.13 Failure to Maintain**

#### **90.14 Curb Valve**

#### **90.15 Interior Valve**

#### **90.16 Inspection and Approval**

#### **90.17 Completion by The City**

#### **90.18 Shutting Off Water Supply**

#### **90.19 Operation of Curb Valve and Hydrants**

#### **90.01 DEFINITIONS.**

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

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

#### **90.02 SUPERINTENDENT'S DUTIES.**

The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council.

In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

### **90.03 MANDATORY CONNECTIONS.**

All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source. Once connected to the public system, there shall be no re-establishment of an alternate system.

### **90.04 ABANDONED CONNECTIONS.**

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

### **90.05 PERMIT.**

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

### **90.06 FEE FOR PERMIT.**

Before any permit is issued the person who makes the application shall pay one hundred dollars (\$100.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition the applicant shall pay for the cost of the meter and the cost of all connecting materials.

*(Code of Iowa, Sec. 384.84)*

### **90.07 COMPLIANCE WITH PLUMBING CODE.**

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

### **90.08 PLUMBER REQUIRED.**

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

harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of five thousand dollars (\$5,000.00) may be filed with the City.

#### **90.09 EXCAVATIONS.**

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

#### **90.10 TAPPING MAINS.**

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

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

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

#### **90.11 INSTALLATION OF WATER SERVICE PIPE.**

Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

**90.12 RESPONSIBILITY FOR WATER SERVICE PIPE.**

All costs and expenses incident to the installation, connection and continued maintenance of the water service pipe from the main to the building served, including the saddle, corporation cock, line to curb valve and box, and line to meter valve and meter, shall be borne by the owner. The owner shall also be responsible for any damage to street surface resulting from leak and shall be billed by the City for the repair of said damage. 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, and in the event of such action the City shall hereby be given a temporary maintenance and repair easement in order to maintain or repair any water service facilities.

*(Ord. 85 - Dec. 02 Supp.)*

**90.13 FAILURE TO MAINTAIN.**

When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

**90.14 CURB VALVE.**

There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

**90.15 INTERIOR VALVE.**

There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

**90.16 INSPECTION AND APPROVAL.**

All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

### **90.17 COMPLETION BY THE CITY.**

Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

### **90.18 SHUTTING OFF WATER SUPPLY.**

The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

### **90.19 OPERATION OF CURB VALVE AND HYDRANTS.**

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

## **CHAPTER 91 - WATER METERS**

### **91.01 Purpose.**

### **91.02 Water Use Metered.**

### **91.03 Fire Sprinkler Systems - Exception.**

### **91.04 Location of Meters.**

### **91.05 Meter Setting.**

### **91.06 Meter Repairs.**

### **91.07 Right of Entry.**

### **91.08 Meter Installation Fee.**

### **91.09 Meter Accuracy and Tests.**

#### **91.01 PURPOSE.**

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

#### **91.02 WATER USE METERED.**

All water furnished customers shall be measured through meters furnished by the City and installed by the City.

#### **91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION.**

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

#### **91.04 LOCATION OF METERS.**

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

#### **91.05 METER SETTING.**

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

#### **91.06 METER REPAIRS.**

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

#### **91.07 RIGHT OF ENTRY.**

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

#### **91.08 METER INSTALLATION FEE.**

There shall be a fee charged to the property owner for each new installation of a water meter in accordance with the schedule of such fees approved by resolution of the Council.

#### **91.09 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 (2%) or more, the cost of the test 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 twelve (12) months. If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.

## CHAPTER 92 - WATER RATES

**92.01 Service Charges**  
**92.02 Rates for Service**  
**92.03 Rates Outside The City**  
**92.04 Billing for Water Service**  
**92.05 Service Discontinued**

**92.06 Lien for Nonpayment**  
**92.07 Lien Exemption**  
**92.08 Lien Notice**  
**92.09 Customer Deposits**

### **92.01 SERVICE CHARGES.**

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

*(Code of Iowa, Sec. 384.84)*

### **92.02 RATES FOR SERVICE.**

Water service shall be furnished at the following rates within the City:

*(Code of Iowa, Sec. 384.84)*

1. Residential. Water service shall be supplied at the following quarterly rates:
  - A. \$10.00 per month base rate (minimum charge)
  - B. \$6.32 for every 1,000 gallons of water
2. Commercial. Water service shall be supplied at the following monthly rates:
  - A. \$15.00 per month base rate (minimum charge)
  - B. \$7.50 for every 1,000 gallons of water
3. Multiple Units Served by One Water Meter. In those situations where more than one dwelling unit or commercial space is served by a single water meter, such as condominiums, trailer courts, cooperatives or associations, a minimum charge shall be imposed for each dwelling unit or commercial space. If the combined minimum quantities of all served units is exceeded, a charge for the excess usage will be imposed based upon the rates set out above.

*(Ord. 117 - Aug. 09 Supp.)*

### **92.03 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 rates one hundred twenty-five percent (125%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4[2] & 384.84)*

### **92.04 BILLING FOR WATER SERVICE.**

Water service shall be billed as part of a combined service account, payable in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Meters Read. Water meters shall be read quarterly for residential premises and monthly for commercial premises.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the thirtieth (30<sup>th</sup>) day of the month.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within thirty (30) days for residential customers and by the twenty-first (21<sup>st</sup>) of the following month for commercial customers.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of ten percent (10%) shall be added to each delinquent bill after the due date.”

**(Ord. 155 – Aug. 2015 Supp.)**

### **92.05 SERVICE DISCONTINUED.**

Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such deadline shall not fall on a Friday or before a holiday. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested at least three (3) days before the deadline, the Superintendent shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Superintendent's decision to the Council, and if the

Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

#### **92.06 LIEN FOR NONPAYMENT.**

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

*(Code of Iowa, Sec. 384.84)*

#### **92.07 LIEN EXEMPTION.**

The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

*(Code of Iowa, Sec. 384.84)*

#### **92.08 LIEN NOTICE.**

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

*(Code of Iowa, Sec. 384.84)*

## **92.09 CUSTOMER DEPOSITS.**

When water service is established to a new customer, residential or commercial, the new customer shall be required to pay to the city a deposit in the amount of \$250.00 to ensure against non-payment of water usage. The deposit may be applied by the city to any delinquent water account or delinquent solid waste fee provided under Section 106.08. If a portion of the deposit is applied to a delinquent account, the account holder shall restore the deposit to the amount of \$250.00 within thirty (30) days of notice from the city. If the deposit is not restored, water service may be terminated.

If there are no delinquencies on an account for a period of twelve (12) consecutive months after service is established, the City Clerk may, upon request of the account holder, refund the deposit.”

**(Ord. 154 – Supp. Aug. 2015)**

## CHAPTER 93 - WATER CONSERVATION

**93.01 Water Shortages**

**93.02 Conditions**

**93.03 Water Watch**

**93.04 Water Warning - Level 1**

**93.05 Water Warning - Level 2**

**93.06 Penalties**

**93.07 Water Emergency**

**93.08 Base Allocation**

**93.09 Appeal and Adjustment of the Base Allocation**

**93.10 Premium Rate for Imprudent Consumption**

**93.11 Adjustment of Premium Rate Charges**

**93.12 Water Appeal Board**

**93.13 Municipal Infraction**

**93.14 Reduction in Flow of Water to any Person**

### **93.01 WATER SHORTAGES.**

From time to time during and following drought conditions, or due to equipment failure, the City water supply may become significantly and seriously depleted so that there will not then be a sufficient supply of water to meet all customary and usual demands. Under these conditions, the Council may find, and declare by resolution, a public Water Watch, Water Warning or Water Emergency during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the Council finds and declares the water shortage condition to be ended.

### **93.02 CONDITIONS.**

1. Water Watch. A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Watch include:
  - A. System operating at seventy-five percent (75%) of pumping capacity;
  - B. Moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells;
  - C. Moderate decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.
2. Water Warning. A Level 1 or Level 2 Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose a Level 1 Water Warning include:
  - A. System operating at eighty-five percent (85%) of pumping capacity;
  - B. Significant decrease in the pumping water level of wells or significant decrease in recovery rate of water level in wells;
  - C. Significant decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

Indicators of the need to impose a Level 2 Water Warning include severe system emergencies such as a chemical spill or major system failure in feeder mains or treatment plant.

3. Water Emergency. A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include:
  - A. System operating at ninety-five percent (95%) of pumping capacity;
  - B. Serious decrease in the recovery rate of water level in wells;
  - C. Serious decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

### **93.03 WATER WATCH.**

Under a Water Watch, all customers of the City water supply are encouraged to limit or curtail all nonessential uses of water in order to conserve precious water resources during the time of shortage. Customers may be encouraged to comply with the following voluntary standards:

1. No watering of lawns, shrubs or gardens between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.
2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
3. No water should be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
5. Water should be served at restaurants only upon the request of the customer.

### **93.04 WATER WARNING - LEVEL 1.**

Under a Level 1 Water Warning, no person shall use potable processed water of the City water service in any manner contrary to the following:

1. Outdoor watering or irrigation of lawn is prohibited.
2. Outdoor watering of any kind is prohibited between the hours of one o'clock (1:00) p.m. and eight o'clock (8:00) p.m. daily.
3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four (4) years old and new seedling or sod is permitted once per week with an application not to exceed one (1) inch.
4. Car washing is prohibited except in commercial establishments that provide that service.
5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.

6. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
7. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
8. Water shall be served in restaurants only upon the request of the customer.
9. Use of water-consuming comfort air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.
10. Tankload water sales may be curtailed or eliminated.

Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from sources other than the City water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

### **93.05 WATER WARNING - LEVEL 2.**

Under a Level 2 Water Warning, no person shall use potable processed water of the City water supply in any manner contrary to the following:

1. All outside water use, except for domestic, sanitation and fire, is prohibited.
2. All commercial and industrial uses of water not essential in providing products or services is prohibited.
3. Irrigation of agricultural crops is prohibited.
4. Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational uses, is prohibited.
5. Water use not necessary for the preservation of life or the general welfare of the community is prohibited.

### **93.06 PENALTIES.**

The following penalties shall apply for violation of Water Warning or Water Emergency use restrictions imposed under this chapter.

1. First Violation. For a first violation, the City shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.
2. Second Violation. For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill.
3. Subsequent Violations. For any subsequent violations within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill, and in addition, the City water supply shall interrupt water service to that customer at the premises at which the violation

occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of Water Warning or Water Emergency use restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal Board. The Water Appeal Board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

### **93.07 WATER EMERGENCY.**

Under a Water Emergency, Level 1 Water Warning use restrictions shall be in effect and, in addition, each customer will be afforded a monthly base allocation of water.

### **93.08 BASE ALLOCATION.**

The base allocation of water for residential use shall be 3,000 gallons per household per month. For commercial, industrial or institutional use, the base allocation shall be established by resolution as a percentage of the average water used during the previous winter (November through April).

### **93.09 APPEAL AND ADJUSTMENT OF THE BASE ALLOCATION.**

Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than thirty (30) days.
2. For commercial, industrial, institutional or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer; such as usage, production, service and occupancy data provided by the customer.

### **93.10 PREMIUM RATE FOR IMPRUDENT CONSUMPTION.**

In addition to the water rates duly enacted by the Council, all persons shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation.

### **93.11 ADJUSTMENT OF PREMIUM RATE CHARGES.**

Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Water Appeal Board. The Water Appeal Board may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustments may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for overconsumption due to human carelessness.
2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
3. The adjustment shall be granted only for the billing period prior to the correction of the failure.
4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be forty percent (40%) of the actual bill which shall include the premium rate charges and sales tax.

### **93.12 WATER APPEAL BOARD.**

A Water Appeal Board shall be appointed during any Water Warning or Water Emergency. The Water Appeal Board shall consist of the Mayor, the Water Superintendent and three representatives of the community who shall be appointed by the Mayor with the approval of the Council. The Water Appeal Board shall hear appeals of any action taken pursuant to a Water Warning or Water Emergency, except that, if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Section 364.22 of the Code of Iowa.

### **93.13 MUNICIPAL INFRACTION.**

A second or subsequent violation of the Water Warning or Water Emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction. The City Clerk and/or City Zoning Administrator is authorized to enforce this chapter and may issue a civil citation and proceed in a manner consistent with Section 364.22, Code of Iowa, as amended.

### **93.14 REDUCTION IN FLOW OF WATER TO ANY PERSON.**

The Water Superintendent is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a Water Warning or Water Emergency.

## SANITARY SEWER

### CHAPTER 95 ON-SITE WASTEWATER SYSTEMS

#### 95.01 Purpose

#### 95.02 Definitions

#### 95.03 When Prohibited

#### 95.04 When Required

#### 95.05 Compliance With Regulations

#### 95.06 Discharge Restrictions

#### 95.07 Maintenance of System

#### 95.08 Private Systems Abandoned

#### 95.09 Disposal of Septage

#### 95.01 PURPOSE.

The purpose of this chapter is to establish rules and regulations governing the treatment and disposal of sewage wastewater within the City in order to protect the public health, safety and welfare.

#### 95.02 DEFINITIONS.

For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

*(IAC, 567-69.1[2])*

1. "Building sewer" means the extension from the building drain to the place of disposal.
2. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
3. "Septage" means the liquid contents (including sludge and scum) of a septic tank.
4. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.
5. "Sewer" means a pipe or conduit for carrying sewage.
6. "Wastewater" means the water-carried wastes derived from ordinary living processes.

#### 95.03 WHEN PROHIBITED.

Except as otherwise provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

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

**95.04 WHEN REQUIRED.**

Where a sanitary sewer is not available to a property under the provisions established by the Iowa Great Lakes Sanitary Sewer District, the building sewer shall be connected to an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

*(IAC, 567-69.1[3])*

**95.05 COMPLIANCE WITH REGULATIONS.**

The type, capacity, location and layout of an on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and to such additional requirements as are prescribed by the regulations of the County Board of Health.

*(IAC, 567-69.1[3 & 4])*

**95.06 DISCHARGE RESTRICTIONS.**

It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

*(IAC, 567-69.1[3])*

**95.07 MAINTENANCE OF SYSTEM.**

The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

**95.08 PRIVATE SYSTEMS ABANDONED.**

At such time as a sanitary sewer becomes available to a property served by an on-site treatment system, a direct connection shall be made to the sewer in compliance with the Iowa Great Lakes Sanitary Sewer District regulations, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

**95.09 DISPOSAL OF SEPTAGE.**

No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

**CHAPTER 100 - STORM SEWER**

**100.01 STORM WATER DRAINAGE SYSTEM.**

The Council may declare to allow for 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)*

**100.02 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)*



## GARBAGE AND SOLID WASTE

### CHAPTER 105 - SOLID WASTE CONTROL

<b>105.01 Purpose</b>	<b>105.11 Solid Waste Bags and Containers</b>
<b>105.02 Definitions</b>	<b>105.12 Prohibited Practices</b>
<b>105.03 Sanitary Disposal Required</b>	<b>105.13 Sanitary Disposal Project Designated</b>
<b>105.04 Health and Fire Hazard</b>	<b>105.14 Wind-Blown Refuse</b>
<b>105.05 Open Burning Restricted</b>	<b>105.15 Deposit Of Refuse or Garbage On Private Premises</b>
<b>105.06 Separation of Landscape Waste Required</b>	<b>105.14 Debris on Streets</b>
<b>105.07 Separation of Recyclable Materials</b>	<b>105.16 Deposit of Grass and Rubbish Prohibited in Public Streets</b>
<b>105.08 Littering Prohibited</b>	<b>105.17 Exceptions</b>
<b>105.09 Open Dumping Prohibited</b>	
<b>105.10 Toxic and Hazardous Waste</b>	

#### **105.01 PURPOSE.**

The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and recyclable material and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

#### **105.02 DEFINITIONS.**

For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee.

*(Code of Iowa, Sec. 455B.101[2b])*

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

*(Code of Iowa, Sec. 455B.361[2])*

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

*(IAC, 567-100.2)*

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

*(IAC, 567-20.2) & (Code of Iowa, Sec. 455B)*

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

*(Code of Iowa, Sec. 455B.361[1])*

8. "Owner" means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

9. "Recyclable material" means cardboard, paper, glass, tin and other items which are discarded but which may be recycled and reused for industrial, commercial, agricultural or other domestic use. The items which may be recycled will change from time to time depending upon technology and the used available for the recyclable material. The Clerk shall post from time to time those items designated as recyclable and shall keep a list at all times of recyclable material.

10. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

*(IAC, 567-100.2)*

11. "Residential premises" means a single-family dwelling and any multiple-family dwelling.

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

*(IAC, 567-20.2) & (Code of Iowa, Sec. 455B)*

13. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

*(IAC, 567-100.2)*

14. "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)*

15. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

*(Code of Iowa, Sec. 455B.301)*

16. "Solid Waste Collection" shall mean the gathering of solid wastes from public and private places.

*(IAC, 567-100.2)*

17. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

*(Code of Iowa, Sec. 455B.301)*

**105.03 SANITARY DISPOSAL REQUIRED.**

It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.**

It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.**

No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2 and 567-100.2)) & (Code of Iowa, Sec. 455B)*

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, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings is not permitted. Trees and tree trimmings and other landscape waste should be disposed of at the Dickinson County disposal facility.

***(Ord. 148 - Feb. 13 Supp.)***

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

*(IAC, 567-23.2[3e])*

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

7. 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 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 an approved waste burner located safely not less than fifteen (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. The Fire Chief may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

#### **105.06 SEPARATION OF LANDSCAPE WASTE REQUIRED.**

All landscape waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises in accordance with Section 105.05 or disposed of at the Dickinson County Landfill waste disposal site.

*(Ord. 140 - Feb. 13 Supp.)*

#### **105.07 SEPARATION OF RECYCLABLE MATERIALS.**

Recyclable materials shall be stored separately from all other waste material and stored in containers or bags constructed and maintained so as to allow the recyclable materials to be delivered by the owner or occupant to the recyclable bins site(s) established by the City and deposit the materials in the appropriate bins.

*(Ord. 148 Feb. 13 Supp.)*

### **105.08 LITTERING PROHIBITED.**

No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

### **105.09 OPEN DUMPING PROHIBITED.**

No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

### **105.10 TOXIC AND HAZARDOUS WASTE.**

No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2) (IAC, 567-102.14[2] and 400-27.14[2])*

### **105.11 SOLID WASTE BAGS AND CONTAINERS.**

1. Every person owning, managing, operating, leasing or renting any site in the City of Wahpeton where solid waste is generated shall be provided by the solid waste contractor approved by the City and shall maintain in good order and repair a 65-gallon capacity solid waste cart.
2. Provisions Applicable to Carts.
  - A. All solid waste carts are the property of Town & Country.
  - B. Each solid waste cart is numbered and assigned to a specific address. The solid waste cart is to remain at that address when occupancy changes.
  - C. If solid waste carts are damaged or lost through the neglect of the property owner/user, the solid waste cart shall be repaired or replaced at the expense of the property owner/user.
  - D. The solid waste carts supplied by Town & Country shall be the only approved receptacles for the storage of solid waste for collection.

3. City Biodegradable Bags. Solid waste placed in solid waste carts shall be contained in bags issued by the City of Wahpeton. Such bags shall be made available at a cost as provided in a resolution adopted by the City Council.
4. Storage of Carts. Residential solid waste carts shall be stored upon the residential premises. Commercial solid waste carts shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. Solid waste cart storage sites shall be well drained, fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all refuse and yard waste and shall prevent materials from being blown or scattered.
5. Placement of Carts for Collections. The solid waste carts provided by Town & Country for collection shall be placed adjacent to the nearest public access with the wheels away from the street towards the residence. The cart shall be placed a minimum of three (3) feet from any obstacle, such as trees, vehicles, mailboxes, poles or other solid waste carts.
6. Recyclable Materials. (Repealed by Ord. 148 - Feb. 13 Supp.)

*(Ord. 140 - Feb. 13 Supp.)*

#### **105.12 PROHIBITED PRACTICES.**

It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

#### **105.13 SANITARY DISPOSAL PROJECT DESIGNATED.**

The sanitary landfill facilities designated by the City Council by resolution are the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City of Wahpeton, Iowa.

*(Ord. 140 - Feb. 13 Supp.)*

**105.14 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.

**105.15 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.

**105.14 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.

**105.16 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.

**105.17 EXCEPTIONS.**

Nothing in this chapter 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.

## **CHAPTER 106 COLLECTION OF SOLID WASTE**

**106.01 Collection Service**  
**106.02 Collection Vehicles**  
**106.03 Loading**  
**106.04 Frequency of Collection**  
**106.05 Bulky Rubbish**

**106.06 Right of Entry**  
**106.07 Contract Requirements**  
**106.08 Collection Fees**  
**106.09 Lien for Nonpayment**

### **106.01 COLLECTION SERVICE.**

The City shall provide by contract for the collection of all solid waste, except bulky rubbish as provided in Section 106.05 within the City.

*(Ord. 148 - Feb. 13 Supp.)*

### **106.02 COLLECTION VEHICLES.**

Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9) & (Code of Iowa, Sec. 455B)*

### **106.03 LOADING.**

Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

### **106.04 FREQUENCY OF COLLECTION.**

All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

### **106.05 BULKY RUBBISH.**

Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefore established by the Council.

*(Ord. 148 - Feb. 13 Supp.)*

### **106.06 RIGHT OF ENTRY.**

Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

### **106.07 CONTRACT REQUIREMENTS.**

No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

### **106.08 COLLECTION FEES.**

*(Ord. 148 - Feb. 13 Supp.)*

*(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)*

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:
  - A. For each residential premises: Customers shall dispose of solid waste by placing it in City-issued bags purchased from the City at a cost set by resolution of the Council. Additionally, customers shall pay a monthly fee for disposal of solid waste at a cost set by resolution of the Council.
  - B. For commercial premises: The cost for each yard of solid waste to be disposed of, to be set by resolution of the Council.
  - C. Recyclable Materials: (Repealed by Ord. 148 -Feb. 13 Supp.)
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

### **106.09 LIEN FOR NONPAYMENT.**

The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*



## **FRANCHISES AND OTHER SERVICES**

### **CHAPTER 110 - NATURAL GAS FRANCHISE**

**10.01 Franchise Granted**

**110.02 Excavations**

**110.03 Interference With Public  
Improvements**

**110.04 Operation Standards.**

**110.05 Regulation by City**

**110.06 Quality of Gas**

**110.07 Indemnification**

**110.08 Franchise Terminated**

**110.09 Term of Franchise**

#### **10.01 FRANCHISE GRANTED.**

Peoples Natural Gas Company, Division of UtiliCorp United Inc., its lessees, successors and assigns, hereinafter referred to as Grantee, are hereby granted a nonexclusive authority for a period of twenty-five (25) years to erect, construct, maintain and operate a gas distribution system, and any and all necessary mains, pipes, services and other appurtenances and equipment thereunto appertaining, in, upon, over, across and along the streets, alleys, bridges and public places in the City for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in the City and for the purpose of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of the City to other cities and customers.

#### **110.02 EXCAVATIONS.**

Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place within the corporate limits of the City, the same shall be done in a manner so as not to unreasonably interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the City. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonable notice, the City may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the City by the Grantee.

#### **110.03 INTERFERENCE WITH PUBLIC IMPROVEMENTS.**

The Grantee in constructing and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City and in laying and installing mains, services, piping and related appurtenances and equipment, shall not in any manner interfere with or injure any improvement which the City now has or may hereafter have upon any of its streets, alleys, highways or public places.

#### **110.04 OPERATION STANDARDS.**

Grantee agrees for and on behalf of itself, its lessees, successors and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern, standard and sufficient gas system and equipment and to maintain and operate the same in a modern and adequate fashion. Grantee will from time to time during the term of the franchise make such enlargements and extensions of its distribution system as the business of the Grantee and the growth of the City justify, in accordance with its rules and regulations relating to customer connections and main and service line extensions currently in effect and on file from time to time with the State Utilities Board or other competent authority having jurisdiction in the premises; provided, however, no obligation shall extend to, or be binding upon, the Grantee to construct or extend its mains or furnish natural gas or natural gas service within the City if Grantee is, for any reason, unable to obtain delivery of natural gas at or near the corporate limits of the City or an adequate supply thereof to warrant the construction or extension of its mains, for the furnishing of such natural gas or gas service; and provided further, that when the amount of natural gas supplied to Grantee at or near the limits of the City is insufficient to meet the additional firm requirements of connected or new customers, Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas for such additional firm requirements to residential, commercial and industrial customers in that order of priority.

#### **110.05 REGULATION BY CITY.**

Grantee agrees for and on behalf of itself, its lessees, successors and assigns that all authority and rights in this chapter contained shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate the manner in which Grantee shall use the streets, alleys, bridges and public places of the City and concerning the manner in which Grantee shall use and enjoy the franchise herein granted.

#### **110.06 QUALITY OF GAS.**

The Grantee shall, at all times, maintain an adequate pressure and adequate supply of clean, standard gas of the British Thermal Unit heating value of not less than that prescribed in its Rules and Regulations relating thereto in effect and on file from time to time with the State Utilities Board or other competent authority having jurisdiction in the premises. Should the British Thermal Units fall below the limitation set forth in its appropriate Rules and Regulations, the rate then in effect shall be automatically and correspondingly lowered and reduced during any period or periods of time in which such lower British Thermal Unit value shall be furnished. The City shall have the privilege of requesting Grantee to furnish satisfactory proof of British Thermal Unit content of the gas.

#### **110.07 INDEMNIFICATION.**

The Grantee shall hold the City harmless from any and all claims and actions, litigation or damage arising out of the passage of the ordinance codified by this chapter or of the construction, erection, installation, maintenance or operation of its properties operated by authority of this chapter within the corporate limits of the City or the negligence of its employees in the operation thereof, including the Court costs and reasonable attorney fees in making defense against such claims. A copy of the process served upon the City shall be served by the City upon the Grantee. The Grantee shall have the right to defend in the name of the City and to employ counsel for such purpose.

#### **110.08 FRANCHISE TERMINATED.**

If the Grantee shall be in default in the performance of any of the terms and conditions of this chapter and shall continue in default for more than thirty (30) days after receiving notice from the City of such default, the City may, by ordinance duly passed and adopted, terminate all rights granted under this chapter to the Grantee. The said notice of default shall specify the provision or provisions in the performance of which it is claimed the Grantee is in default. Said notice shall be in writing and served in the manner provided by the laws of the State for the service of original notices in civil actions.

#### **110.09 TERM OF FRANCHISE.**

The right and authority herein granted shall be nonexclusive and shall be and continue for a period of twenty-five (25) years from and after the effective date of the ordinance codified by this chapter.

#### Notes

EDITOR'S NOTE: Ordinance No. 38 adopting a gas franchise for the City was passed and adopted on January 9, 1991.

## **CHAPTER 111 ELECTRIC FRANCHISE**

**111.01 Franchise Granted**

**111.02 Poles and Wires; Indemnification**

**111.03 Excavations**

**111.04 Construction and Maintenance**

**111.05 Meters**

**111.06 System Requirements**

**111.07 Nonexclusive**

**111.08 Continuous Service**

**111.09 Franchise Fee**

**111.10 Term of Franchise**

**111.11 Entire Agreement**

### **111.01 FRANCHISE GRANTED**

There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the emergency manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years,<sup>3</sup> subject to a right of cancellation only at the end of the tenth (10th) and twentieth (20th) year anniversaries of the "Anniversary Date"; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

### **111.02 POLES AND WIRES; INDEMNIFICATION.**

The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

### **111.03 EXCAVATIONS.**

In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall reconstruct pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

### **111.04 CONSTRUCTION AND MAINTENANCE.**

The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as

a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City will cooperate with and assist the Company in finding a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

#### **111.05 METERS.**

The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

#### **111.06 SYSTEM REQUIREMENTS.**

The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

#### **111.07 NONEXCLUSIVE.**

The franchise granted by this chapter shall not be exclusive.

#### **111.08 CONTINUOUS SERVICE.**

Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casual ties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

#### **111.09 FRANCHISE FEE.**

1. In its monthly billing the Company shall include a franchise fee of zero percent (0%) or such other amount as hereinafter authorized by the City Council, consistent with State law, on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.
2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.
3. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list.

4. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.
5. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.
6. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.
7. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to subsection 1 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.
8. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.
9. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.
10. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the ordinance term.
  - A. The obligation to collect and remit the fee imposed by this chapter is modified if:
    - (1) Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

- (2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or
  - (3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.
- B. The obligation to collect and remit the fee imposed by this ordinance is repealed, effective as of the date specified below with no liability therefor, if:
- (1) Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or
  - (2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or
  - (3) The Iowa Utilities Board, or any successor denies the Company the right to impose, collect or franchise fee provided such denial is affirmed Supreme Court of Iowa, effective as of the date final agency order from which the appeal is taken.
11. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment (except special assessments against the real property of the company) license or rental charge during the entire term of this franchise, except as permitted pursuant to Section 111.11, below.
12. If and when a franchise fee is imposed, the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

#### **111.10 TERM OF FRANCHISE.**

The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided. The City may cancel this franchise on the tenth (10th) or twentieth (20th) anniversary of the Anniversary Date of this franchise by notifying Company in writing of its desire to do so, said notification to be given within thirty (30) days of the tenth (10th) or twentieth (20th) anniversary respectively of this franchise. If Company is not notified of the cancellation by the tenth (10th) or twentieth (20th) anniversary then this franchise shall continue without cancellation until the twenty-fifth (25th) year. The Anniversary Date shall be the date this franchise is filed with the City Clerk or otherwise effective by operation of law.

#### **111.11 ENTIRE AGREEMENT.**

This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the written approval and acceptance of the Company. Upon written acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City as of the date the ordinance codified by this chapter is accepted by the Company. Notwithstanding the foregoing, except to the extent necessary for the City to exercise its police powers, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

*(Ch. 111 - Ord. 135 - Mar. 11 Supp.)*

## **CHAPTER 112 - CABLE TELEVISION FRANCHISE**

### **112.01 Definitions**

### **112.02 Grant of Authority**

### **112.03 Liability and Indemnification**

### **112.04 Conditions of Occupancy**

### **112.05 Assignment and/or Transfer**

### **112.06 Fees**

### **112.07 Rates and Charges**

### **112.08 Public Access**

### **112.09 Permits**

### **112.10 Service Extensions**

### **112.11 Anti-Discrimination**

### **112.12 Individual Antennas**

### **112.13 Unauthorized Connections**

### **112.14 Limitation of Activities**

### **112.15 Extensions**

### **112.01 DEFINITIONS.**

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given below.

1. "Grantee" is Spirit Lake Cable TV, Inc. or its assigns, the receiver of rights granted by the ordinance codified in this chapter.
2. "System" or "plant" is entire complex of wires, cables and associated equipment making up the cable television system.

### **112.02 GRANT OF AUTHORITY.**

After due consideration in public hearing, in which interested persons were offered opportunity to participate, and being satisfied as to the Grantee's legal, technical, character, financial and qualifications, the City does hereby grant to the Grantee, its successors and assigns, a nonexclusive franchise, right and privilege, for rights-of-way and use of space over and/or under roads, streets, bridges, avenues, parks, drives and driveways, walks, parking lots, all manner of easements and other public areas of the City as now existing or hereafter revised or extended, for construction, operation and maintenance of a cable television system, including the provision of cable television service and other data and communication services, consisting of antennas, wires and cables and associated electric/electronic equipment and other necessary supplies and furnishings for the collection and distribution of electronic impulses and energy and for other legal purposes within the capability of the system, with the period of the franchise to be for a term of 20 years from the date cable television service is offered to subscribers to the Grantee's service in the City, with renewal for successive 20- year periods consistent with the rules of the Federal Communications Commission (FCC). ? During the term of the franchise, Grantee shall not allow any other person to own or operate a cable system within the City under terms more favorable or less burdensome than those contained in this chapter.

### **112.03 LIABILITY AND INDEMNIFICATION.**

Grantee shall maintain Worker's Compensation, public liability and property damage insurance with a company approved by the Commissioner of Insurance of the State of Iowa. Limits of liability shall not be less than the following:

1. \$100,000.00 property damage to one person with total of \$200,000.00 any one accident.
2. \$250,000.00 personal injury to one person with total of \$1,000,000.00 any one accident.

Public liability and property damage insurance shall cover the Grantee in consideration or defense of claims or suits for alleged injuries or damages due to construction, operation or maintenance of the system. A certificate of insurance shall be filed with the City Clerk.

### **112.04 CONDITIONS OF OCCUPANCY.**

1. The Grantee may contract for use of poles and other facilities and equipment to whatever extent such agreements may be of advantage to the Grantee in providing services offered under the franchise to its subscribers. Should such poles and equipment or contracts not be available or of advantage to the Grantee, then Grantee may own and maintain its own poles and equipment at locations approved by the City's engineer or other designated official except in locations where both telephone and power lines are underground the Grantee may be required to place its lines underground where technically and economically feasible.
2. Cable system, cables, wires and equipment shall be of good quality and installed in accordance with good engineering and construction practices. System shall not be located as to offer an inconvenience to the public or limit free use of streets, alleys and public areas or limit free access to private property.
3. During construction or system modifications or maintenance, surface disturbance of streets or public ways shall be restored to a condition comparable with that existing before such disturbance.
4. Trees and tree branches overhanging or lying on Grantee's lines and cables may be trimmed in a workmanlike manner to forestall service interruptions to subscribers.
5. Grantee, on request of any person holding a valid building moving permit issued by the City, shall temporarily raise or lower its lines to allow such moving. The expense of such modifications to Grantee lines and cables shall be paid in advance by the holder of the permit. Not less than twenty working days' advance notice may be required by the Grantee for such temporary modifications and restoration.
6. Grantee shall not be required to extend service to isolated structures; buildings or new construction unless said structures are as a group of four or more within one thousand feet of trunk or feeder lines and a majority of the occupants agree to accept the service when available.

### **112.05 ASSIGNMENT AND/OR TRANSFER.**

Rights granted under this chapter may be freely assigned with approval of the City. The City shall not arbitrarily withhold approval of transfer except it may require the proposed assignee to show financial and technical responsibility and file an instrument of acceptance of the terms and conditions of this chapter with the City Clerk.

### **112.06 FEES.**

Annually, on 30-day notice by the City Council, the Grantee agrees to pay to the City, in lieu of an annual permit fee or other charge including pole rent, within 60 days after the close of the Grantee's fiscal year, a stipend not to exceed three percent (3%) of the gross receipts. "Gross receipts," defined for the purpose of this payment, shall be limited to monthly or annual charges collected for basic and expanded basic services rendered within the City and shall not include sales taxes or other direct taxes or income from connections, reconnections or other sources included but not limited to rents, advertising, special services including channels of programming sold on a per-channel basis. Grantee shall keep records of gross receipts for a period of one year after close of each Grantee's fiscal year for inspection or audit by a duly authorized agent of the City during reasonable business hours.

### **112.07 RATES AND CHARGES.**

Grantee may regulate rates and charges to subscribers as provided by Federal law.

### **112.08 PUBLIC ACCESS.**

Grantee shall provide one channel for public, education and government access. Conditions are as follows:

1. The channel may be used by the City, school or other public bodies as a public service, educational or informational channel on a first come, first serve basis.
2. The City, school or other public bodies shall furnish any special equipment and personnel necessary to feed public service, informational or educational programs into the Grantee's system.
3. The Grantee shall not be responsible for the content of said public service, informational or educational programs and reserves the right to use this channel at any time or during any period for which no program of use of such channel is scheduled by the City, school or other public bodies.

### **112.09 PERMITS.**

Grantee shall secure permits to construct and operate the system as may be required by the Federal Communications Commission or other regulatory agencies. Grantee shall keep all licenses and permits current and operate the system in accordance with rules and regulations of the said agencies and this chapter.

### **112.10 SERVICE EXTENSIONS.**

The Grantee may locate a portion of the system or extend service outside the corporate limits of the City without conflict or restriction by any part of this chapter.

### **112.11 ANTI-DISCRIMINATION.**

Grantee shall not make or grant special privileges or discriminate against any person, subscriber or legal entity or subject anyone to a prejudice or disadvantage based on race, gender or ethnic background.

### **112.12 INDIVIDUAL ANTENNAS.**

Nothing in this chapter shall limit or deny service as presently provided by direct reception or limit the right of individuals to erect and maintain their own antenna.

### **112.13 UNAUTHORIZED CONNECTIONS.**

It is unlawful for any person(s) to secure cable services from Grantee's lines or facilities, or from any user or lessee of readjusting any lessee of said lines and facilities. Any person(s) securing said service as outlined above or tampering with said lines and equipment in any manner shall be deemed guilty as provided by applicable laws and ordinance and subject to the penalties as directed thereby. Should any person secure service from said lines and/or facilities illegally or connect equipment illegally thereto, the Grantee or its users or lessees shall not be liable for alleged damages, interference with or operation of any equipment or facilities so illegally connected.

### **112.14 LIMITATION OF ACTIVITIES.**

Grantee shall not engage in the sale or service of residential television receivers or parts and supplies or recommend any manufacturer or service personnel over any other.

### **112.15 EXTENSIONS.**

Grantee, without restriction, taxation, fee or license, may use the rights-of-way as outlined in Sections 112.02 and 112.05 of this chapter, as a corridor to place one or more cables through the City to communities outside the corporate limits of the City.

Notes

EDITOR'S NOTE: Ordinance No. 76 granting a franchise for cable television service was passed and adopted on May 8, 2000.

## **CHAPTER 113 ELECTRIC FRANCHISE (TRANSMISSION SYSTEM)**

**113.01 Grant**  
**113.02 Indemnification**  
**113.03 Relocation**  
**113.04 Modern System**  
**113.05 Pruning**

**113.06 Continuous Service**  
**113.07 Non-exclusivity**  
**113.08 Term of Agreement**  
**113.09 Closing**

### **113.01 GRANT.**

There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company") the right and franchise to acquire, construct, erect, maintain and operate in the City of Wahpeton, Dickinson County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "Facilities") along, under and upon the Iowa Highway 86 right-of-way, or along, under and upon such other streets, avenues, alleys and public places which the City Council of Wahpeton, Dickinson County, Iowa, may approve by the adoption of a separate resolution; also the right to erect and maintain upon the Iowa Highway 86 right-of-way or the streets, avenues, alleys and public places, transmission lines through the City of Wahpeton, Dickinson County, Iowa, for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

### **113.02 INDEMNIFICATION.**

The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the Iowa Highway 86 right-of-way, or streets, alleys, and public places in the City, nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

### **113.03 RELOCATION.**

Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under the Iowa Highway 86 right-of-way or any public street or alley in the City of Wahpeton, Iowa, in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its Facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its Facilities. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company's Facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing Facilities until the reasonable cost of relocating the same are paid to the Company.

#### **113.04 MODERN SYSTEM.**

The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

#### **113.05 PRUNING.**

To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereof extending into any street, alley, right-of-way or public grounds on which the Company operates a transmission line. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

#### **113.06 CONTINUOUS SERVICE.**

Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

#### **113.07 NON-EXCLUSIVITY.**

The franchise granted by this chapter shall not be exclusive.

#### **113.08 TERM OF AGREEMENT.**

The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

#### **113.09 CLOSING.**

This chapter sets forth and constitutes the entire agreement between the Company and the City of Wahpeton, Iowa, with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or that delay utility operations.

*(Chapter 113 - Ord. 139 - Feb. 13 Supp.)*

## REGULATION OF BUSINESS AND VOCATIONS

### CHAPTER 120 - BEER, LIQUOR AND WINE CONTROL -

#### 120.01 General Prohibition

#### 120.02 Persons Under Legal Age

#### 120.03 Public Consumption or Intoxication

#### 120.04 Open Containers in Motor Vehicles

#### 120.05 License or Permit Required

#### 120.06 Prohibited Sales and Acts

#### 120.01 GENERAL PROHIBITION.

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

*(Code of Iowa, Sec. 123.2)*

#### 120.02 PERSONS UNDER LEGAL AGE.

As used in this section, "legal age" means twenty-one (21) years of age or more.

1. 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))*

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

3. A person who is under legal age, other than a licensee or permittee, who violates Code of Iowa Section 123.47 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 or 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

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

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

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

**120.03 PUBLIC CONSUMPTION OR INTOXICATION.**

- 1. As used in this section unless the context otherwise requires:
  - A. "Arrest" means the same as defined in section 804.5 of the Code of Iowa and includes taking into custody pursuant to section 232.19 of the Code of Iowa.
  - B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
  - C. "Peace Officer" means the same as defined in section 801.4 of the Code of Iowa.
  - D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
- 2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function.
- 3. A person shall not be intoxicated or simulate intoxication in a public place.
- 4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

*(Code of Iowa, Sec. 123.46)*

**120.04 OPEN CONTAINERS IN MOTOR VEHICLES.**

*(See Section 62.09 of this Code of Ordinances.)*

### **120.05 LICENSE OR PERMIT REQUIRED.**

It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

*(Code of Iowa, Sec. 123.2 and 123.171)*

### **120.06 PROHIBITED SALES AND ACTS.**

No person or club holding a liquor license or beer or wine permit nor his 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 or beer.

*(Code of Iowa, Sec. 123.49(1))*

2. Hours of Operation. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

*(Code of Iowa, Sec. 123.49(2b))*

3. Credit Sales. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to 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. Selling To Minors. 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))*

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 place of business.

*(Code of Iowa, Sec. 123.49(2i))*

7. Soliciting And Disorderly Conduct. Knowingly permit any gambling, except in accordance with Code of Iowa Chapter 99B, 99D, 99F, or 99G, or 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. Advertisement For Alcoholic Liquor, Wine, Or Beet Beer Brand Signs Prohibited. Permit any signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. This section does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.

*(Code of Iowa, Sec. 123.51)*

## CHAPTER 121 CIGARETTE AND TOBACCO PERMITS

### 121.01 Definitions

### 121.02 Permit Required

### 121.03 Application

### 121.04 Fees

### 121.05 Issuance and Expiration

### 121.06 Refunds

### 121.07 Persons Under Legal Age

### 121.08 Self-Service Sales Prohibited

### 121.09 Permit Revocation

### 121.01 DEFINITIONS.

For use in this chapter the following terms are defined:

*(Code of Iowa, Sec. 453A.1)*

1. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. "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, alternative nicotine products, or vapor products irrespective of quantity or amount or the number of sales.
6. "Self-service display" means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

**121.02 PERMIT REQUIRED.**

- 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 be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(Code of Iowa, Sec. 453A.13 (1&10))*

- 2. Permit Required for Tobacco, Tobacco Products, Alternative Nicotine Products, or Vapor Products. It is unlawful for any person to engage in the business of a retailer of tobacco product, alternative nicotine products, or vapor products at any place of business without first having received a permit as a tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer. A permit shall be obtained 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.

**121.03 APPLICATION.**

A completed application on forms provided by the State Department of Revenue and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

**121.04 FEES.**

The fee for a retail cigarette or tobacco permit shall be as follows:

*(Code of Iowa, Sec. 453A.13 & 453A.47A)*

<b>FOR PERMITS GRANTED DURING:</b>	<b>FEE:</b>
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

### **121.05 ISSUANCE AND EXPIRATION.**

Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

### **121.06 REFUNDS.**

A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

*(Code of Iowa, 453A.13 & 453A.47A)*

### **121.07 PERSONS UNDER LEGAL AGE.**

No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])*

**121.08 SELF-SERVICE SALES PROHIBITED.**

Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

*(Code of Iowa, Sec. 453A.36A)*

**121.09 PERMIT REVOCATION.**

Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

*(Code of Iowa, Sec. 453A.22)*

## CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

<b>122.01 Purpose</b>	<b>122.11 Revocation of License</b>
<b>122.02 Definitions</b>	<b>122.12 Notice</b>
<b>122.03 License Required</b>	<b>122.13 Hearing</b>
<b>122.04 Application for License</b>	<b>122.14 Record and Determination</b>
<b>122.05 Consideration of Application</b>	<b>122.15 Appeal</b>
<b>122.05 License Fees</b>	<b>122.16 Effect of Revocation</b>
<b>122.06 Bond Required</b>	<b>122.17 Rebates</b>
<b>122.07 License Issued</b>	<b>122.18 License Exemptions</b>
<b>122.08 Display of License</b>	<b>122.19 Charitable and Nonprofit Organizations.</b>
<b>122.09 License Not Transferable</b>	
<b>122.10 Time Restriction</b>	

### 122.01 PURPOSE.

The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

### 122.02 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" as used herein shall mean and include every merchant, whether an individual person, a firm, corporation, partnership or association, and whether owner, agent, bailee, consignee or employee, who shall bring or cause to be brought within the state of Iowa any goods, wares or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares or merchandise within the state of Iowa. The term "*transient merchant*" shall also mean and include every merchant, whether an individual person, a firm, corporation, partnership or an association, who shall by itself, or by agent, consignee or employee temporarily or intermittently engage in or conduct at one or more locations a business within the state of Iowa for the sale at retail of any goods, wares or merchandise of any nature or description. A merchant engaging in business shall be presumed to be temporarily or intermittently in business unless it is the intention of such merchant to remain continuously in business at each location where the merchant is engaged in business within the state of Iowa as a merchant for a period of more than sixty days. The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to transient vendors of drugs, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work

or production either by themselves or employees.  
(Code of Iowa, Sec. 9C.1)

### **122.03 LICENSE REQUIRED.**

Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

### **122.04 APPLICATION FOR LICENSE.**

An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license, a statement as to whether or not the applicant has ever been convicted of a felony or a misdemeanor, and, if so, the nature of the offense and the penalty imposed; and a description of any motor vehicles to be used by the applicant (including make, model, year, color and registration number). The application shall include a copy of a driver's license or state issued photo identification card. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

### **122.05 CONSIDERATION OF APPLICATION.**

Upon receipt of the application and the required application fee, the clerk, with the assistance of law enforcement, shall investigate the application. If the statements contained in the application are found to be true and correct, the clerk shall issue a registration certificate to the applicant conforming to the application. However, the clerk shall not approve a registration under any of the following circumstances:

- A. The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude.
- B. The application is determined to contain any false statement or information.
- C. The activities of the applicant as a solicitor, peddler or transient merchant have been the subject of complaints by citizens in this city or in other cities where the applicant has conducted business; which complaints cannot be shown to have been resolved or explained to the satisfaction of the city clerk.

### **122.05 LICENSE FEES.**

The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
  - A. For one day \$ 10.00
  - B. For one week \$ 25.00
  - C. For up to six (6) months \$ 50.00
  - D. For one year or major part thereof \$ 100.00

### **122.06 BOND REQUIRED.**

Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

### **122.07 LICENSE ISSUED.**

If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

### **122.08 DISPLAY OF LICENSE.**

Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

### **122.09 LICENSE NOT TRANSFERABLE.**

Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

### **122.10 TIME RESTRICTION.**

All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

### **122.11 REVOCATION OF LICENSE.**

After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

### **122.12 NOTICE.**

The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

### **122.13 HEARING.**

The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

### **122.14 RECORD AND DETERMINATION.**

The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

### **122.15 APPEAL.**

If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

### **122.16 EFFECT OF REVOCATION.**

Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

### **122.17 REBATES.**

Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the

number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

### **122.18 LICENSE EXEMPTIONS.**

The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Milford Community School District and Arnolds Park-Okoboji Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

### **122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.**

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

## **CHAPTER 123 - HOUSE MOVERS**

**123.01 House Mover Defined**

**123.02 Permit Required**

**123.03 Application**

**123.04 Bond Required**

**123.05 Insurance Required**

**123.06 Permit Fee**

**123.07 Permit Issued**

**123.08 Public Safety**

**123.09 Time Limit**

**123.10 Removal by City**

**123.11 Protect Pavement**

**123.12 Overhead Wires**

### **123.01 HOUSE MOVER DEFINED.**

A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

### **123.02 PERMIT REQUIRED.**

It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

### **123.03 APPLICATION.**

Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

**Name and Address.** The applicant's full name and address and if a corporation the names and addresses of its principal officers.

**Building Location.** An accurate description of the present location and future site of the building or similar structure to be moved.

**Routing Plan.** A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

### **123.04 BOND REQUIRED.**

The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

### **123.05 INSURANCE REQUIRED.**

Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

Bodily Injury - \$50,000 per person; \$100,000 per accident.

Property Damage - \$50,000 per accident.

### **123.06 PERMIT FEE.**

A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

### **123.07 PERMIT ISSUED.**

Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

### **123.08 PUBLIC SAFETY.**

At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

### **123.09 TIME LIMIT.**

No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

### **123.10 REMOVAL BY CITY.**

In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

### **123.11 PROTECT PAVEMENT.**

It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 OVERHEAD WIRES.**

The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

## **STREETS AND SIDEWALKS**

### **CHAPTER 135 - STREET USE AND MAINTENANCE**

<b>135.01 Definitions</b>	<b>135.08 Washing Vehicles</b>
<b>135.02 Removal of Warning Devices</b>	<b>135.09 Burning Prohibited</b>
<b>135.03 Obstructing or Defacing</b>	<b>135.10 Excavations</b>
<b>135.04 Placing Debris on</b>	<b>135.11 Maintenance of Parking or Terrace.</b>
<b>135.05 Playing In</b>	<b>135.12 Failure to Maintain Parking or Terrace</b>
<b>135.06 Traveling On Barricaded Street or Alley</b>	<b>135.13 Dumping of Snow</b>
<b>135.07 Use for Business Purposes</b>	<b>135.14 Driveway Culverts</b>

#### **135.01 DEFINITIONS.**

For use in this chapter, the following terms are 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 or streets having no curb, 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. “Property owner” means a person owning private property in the City as shown on the County Auditor’s plats of the City.
3. “Public property” means any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.

#### **135.02 REMOVAL OF WARNING DEVICES.**

It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street, alley or recreational trail any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street, alley or recreational trail without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

#### **135.03 OBSTRUCTING OR DEFACING.**

It is unlawful for any person to obstruct, deface, or injure any street, alley or recreational trail in any manner.

*(Code of Iowa, Sec. 716.1)*

#### **135.04 PLACING DEBRIS ON.**

It is unlawful for any person to throw or deposit on any street, alley or recreational trail any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

*(Code of Iowa, Sec. 321.369)*

#### **135.05 PLAYING IN.**

It is unlawful for any person to coast, sled or play games on streets, alleys or recreational trails, except in the areas blocked off by the City for such purposes.

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

#### **135.06 TRAVELING ON BARRICADED STREET OR ALLEY.**

It is unlawful for any person to travel or operate any vehicle on any street, alley or recreational trail temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

#### **135.07 USE FOR BUSINESS PURPOSES.**

It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street, alley or recreational trail for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

#### **135.08 WASHING VEHICLES.**

It is unlawful for any person to use any public sidewalk, street, alley or recreational trail for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

#### **135.09 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, alley or recreational trail.

#### **135.10 EXCAVATIONS.**

No person shall dig, excavate or in any manner disturb any street, parking, alley or recreational trail except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

- A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street, alley or recreational trail surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets, alleys and recreational trails shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
  3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
  4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
  5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
    - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
    - B. Property Damage - \$50,000.00 per accident.
  6. Restoration of Public Property. Streets, sidewalks, alleys, recreational trails and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
  7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street, alley or recreational trail surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
  8. Completion by the City. Should any excavation in any street, alley or recreational trail be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
  9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

- 10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.
- 11. Permit Fee. A permit fee of one hundred dollars (\$100.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
- 12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
- 13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

**135.11 MAINTENANCE OF PARKING OR TERRACE.**

It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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 thirteen (13) feet above the surface of the street and nine (9) feet above the sidewalks or parking area.

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

**135.12 FAILURE TO MAINTAIN PARKING OR TERRACE.**

If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.13 DUMPING OF SNOW.**

It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street, alley or recreational trail so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

#### **135.14 DRIVEWAY CULVERTS.**

The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

*(Ch. 135 - Ord. 131 - Aug. 09 Supp.)*

## **CHAPTER 136 - VACATION AND DISPOSAL OF STREETS**

### **136.01 Power to Vacate**

### **136.02 Planning and Zoning Commission**

### **136.03 Notice of Vacation Hearing**

### **136.04 Findings Required**

### **136.05 Disposal of Vacated Streets or Alleys**

### **136.06 Disposal by Gift Limited**

#### **136.01 POWER TO VACATE.**

When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

#### **136.02 PLANNING AND ZONING COMMISSION.**

Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

#### **136.03 NOTICE OF VACATION HEARING.**

The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

#### **136.04 FINDINGS REQUIRED.**

No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

#### **136.05 DISPOSAL OF VACATED STREETS OR ALLEYS.**

When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*

**136.06 DISPOSAL BY GIFT LIMITED.**

The City may not dispose of real property by gift except to a governmental body for a public purpose.

*(Code of Iowa, Sec. 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
45	March 17, 1994		
81	August 13, 2001		

**CHAPTER 137 - STREET GRADES**

**137.01 Established Grades**

**137.02 Record Maintained**

**137.01 ESTABLISHED GRADES.**

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

**137.02 RECORD MAINTAINED.**

The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
<b>ORDINANCE NO.</b>	<b>ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>ADOPTED</b>
50	December 11, 1995		

## **CHAPTER 138 – NAMING STREETS**

### **138.01 Naming New Streets.**

### **138.02 Changing Name of Street.**

### **138.03 Recording Street Names.**

### **138.04 Official Street Name Map.**

### **138.05 Revision of Street Name Map.**

#### **138.01 NAMING NEW STREETS.**

New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

#### **138.02 CHANGING NAME OF STREET.**

The Council may, by resolution, change the name of a street.

#### **138.03 RECORDING STREET NAMES.**

The council may by ordinance change the name of a street. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26 & 592.26)*

#### **138.04 OFFICIAL STREET NAME MAP.**

Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 138.04 of the Code of Ordinances of Wahpeton, Iowa."

#### **138.05 REVISION OF STREET NAME MAP.**

If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

## CHAPTER 139 - REGULATIONS GOVERNING PUBLIC LAKE ACCESS AREAS

**139.01 Purpose.**

**139.02 Areas Defined.**

**139.03 Procedures for Issuance of a Dock Permit.**

**139.04 Criteria for Permitted Docks and Related Structures.**

**139.05 Eligibility for Dock Privileges, Permit Duration, Nontransferability and Cancellation, Waiting Lists, and Rights of the General Public.**

**139.06 Commercial Docks.**

**139.07 Exceptions.**

### **139.01 PURPOSE.**

The purpose of this chapter is to establish policies and regulations governing the use of public lake access areas so that fairness, uniformity, and consistency may be applied to the issuance of dock and hoist permits extending from these access areas and to designate maintenance responsibilities and to define rights of the general public and those persons to whom permits have been issued.

### **139.02 AREAS DEFINED.**

For purposes of this chapter, areas considered City controlled access areas within the City of Wahpeton, Iowa, are named and listed as follows:

West Street, Miller Street, Bay West Street, Oak Street, Newport Street, Cove Street, Spencer Beach, Spencer Beach Canal, Edgewood Drive, and the Meneyata Park beaches, including Papoose Beach, Hiawatha Beach, Arrowhead Beach, Crescent Beach Park.

The City staff shall prepare and maintain a map which shall indicate the specific location of each access area.

*(Ord. 130 - Aug. 09 Supp.)*

This list can be modified by amendment to this chapter at any time to either include new areas defined as accesses, or exclude existing areas if conditions require, and judgment is made by the City Council that it is in the best interest of the public to reduce the number of accesses. The existing number of hoists per dock location shall remain as such until such time as other determination is made by the Council.

### **139.03 PROCEDURES FOR ISSUANCE OF A DOCK PERMIT.**

The City shall provide applicants with the proper application form. This form is used to determine eligibility by the City and site assignment.

1. Submitting the Application. The applicants for a dock site extending from a public access area must complete the application form by filling in the information requested, submitting the required fee, and submitting evidence of liability insurance in the amount of not less than \$1,000,000.00 from each proposed dock user or dock association. All items shall be submitted to the City of Wahpeton. These fees shall be reviewed annually by the City Council and set by resolution.
2. Site Assignment by the City. The City shall review each application and determine whether all requested information is given on the application. If all requested information is provided, the City may assign a site location.

3. When the City has approved a dock site application and the site has been assigned, the permittee shall make application to and obtain from the Iowa Department of Natural Resources (IDNR) the dock permit required under Iowa law and regulations. Failure to obtain the required IDNR permit shall void any City dock permit.

*(Ord. 130 - Aug. 09 Supp.)*

4. A "first-time" or new permittee on a dock shall pay an initial fee of up to five hundred dollars (\$500.00), as determined by the owners' association, to the treasurer of the owners' association or other entity for the dock. This payment is non-refundable. Each dock access entity (group) or association shall maintain a bank account for initial fee deposits, maintenance and repair expenses of the access dock.

*(Ord. 130 - Aug. 09 Supp.)*

#### **139.04 CRITERIA FOR PERMITTED DOCKS AND RELATED STRUCTURES.**

The City shall require the permittees to comply with the criteria set forth below. However, the City reserves the right to impose more stringent criteria from time to time as experience dictates.

1. **Materials and Dimensions.** All docks shall be constructed with materials and dimensions that conform to applicable criteria as they relate to "public docks" by the Iowa Department of Natural Resources standards, including that they must be at least four feet (4') in width, and that dock owners shall be required to erect and maintain a "public dock" sign furnished by the City; the sign shall be placed at the landward end of the dock. Replacement costs of the sign due to damage or neglect shall be born by the applicant and shall be payable to the City.
2. **Auxiliary Equipment and Facilities.** Hoists shall be permitted only if specifically authorized in the "dock assignment and permit." A permitted hoist must be placed beside the permitted dock and no hoist shall be allowed adjacent to a portion of a dock that is more than six feet (6') wide. The number of hoists located on a public dock is at the discretion of the City and is limited so as not to cause interference with the ingress or egress of private docks on either side or interference with boat access on the public dock itself. Rafts, diving boards, and other appurtenances shall not be permitted. Dock boxes no larger than 20 cubic feet shall be permitted.
3. **Permittees Responsible for Construction and Maintenance.** Permittees are jointly responsible for construction, installation, removal, repair and maintenance related to access docks. All permittees shall share pro-rata in these costs. If the City determines that a dock is unsafe and requires repair, the City shall notify the permittee's representative for that access dock. The required repair shall be accomplished within thirty (30) days of notice. If the necessary repairs are not made, permits for the unrepaired dock shall be revoked and the dock removed. If a permittee does not pay their pro-rata share of costs associated with the dock, their permit will be rescinded by the City and their space made available to the next available person of the dock lake access waiting list. The assigned permitted names on the application shall be solely responsible for the safe condition of the dock at all times, and the contact person shall be the City's direct contact for questions relating to that dock and shall maintain and keep the access free of leaves, litter and other debris. Furthermore, the assigned permittees on the application shall agree to save harmless and indemnify the City, its officers, employees and agents, for any damage done to personal property or any personal injury arising from the use and maintenance of the access area. Maintenance of each access area shall be at all times compatible with adjacent, private property.

*(Ord. 130 - Aug. 09 Supp.)*

4. Winter Storage of Dock Materials. Docks shall be removed from the lake by November 1, each year, with the exception of dock locations on Turtle Lake, which do not have to be removed. All dock materials stored on the lakeshore public area, including the access road or area itself, shall be stored in a neat, safe, and orderly manner so as not to obstruct public pedestrian traffic along the access or from the access to the shoreline. An open access of no less than fifteen feet (15') through the area to the lakeshore shall be maintained at all times. Docks must be placed in the lake by Memorial Day each year. Boat hoists stored during the winter on public land shall meet the same requirements stated above or shall be stored on private property in another location if these requirements cannot be met.
5. Electrical Facilities. Electric facilities must include ground fault interrupter systems and installation must comply with applicable local building codes. Service shall be buried or if above ground placed in conduit and shall consist of a conductor of no less than 12-2 WG UF.
6. Bulk Fuel. No bulk fuel, explosive, hazardous material, or fuel distribution line shall be permitted on public property.
7. Retaining Walls and Steps. Existing retaining walls and steps may be used if maintained in good repair and are safe for public use. Said retaining walls and steps shall comply with Chapter 165.22(10) of this Code of Ordinances that deals with lakeshore landscaping.
8. Storage Buildings. No storage buildings of any kind are permitted on public access areas.

**139.05 ELIGIBILITY FOR DOCK PRIVILEGES, PERMIT DURATION, NONTRANSFERABILITY AND CANCELLATION, WAITING LISTS, AND RIGHTS OF THE GENERAL PUBLIC.**

1. Eligibility. Dock and hoist privileges on public access areas are reserved to legal residents and property owners of the City; however, this reservation does not preclude the right of the general public from the use of the access, dock, or any appurtenances except boat hoists. Any legal resident or private property owner may apply for dock and hoist privileges for their own currently registered watercraft for any public access. Persons who own lakeshore or canal property or have dock privileges available in connection with owned or leased property shall not be eligible for dock privileges on property controlled by the City of Wahpeton. No person shall be permitted more than one (1) hoist space (1 boat or 2 personal watercraft) on a City access area.

*(Ord. 130 - Aug. 09 Supp.)*

2. Permit Duration. Dock assignment permits shall be valid for a period of one (1) year, but may be renewed annually unless otherwise provided by amendment to this chapter. Certificates of insurance and the required fee must be filed with the City annually prior to the dock being placed in the water. A contact person, as designated on the application, shall be the main communication between the City and all members on the dock, and notice to such contact on any matter shall constitute notice to all designated permittees. The contact person shall at all times keep the City informed as to all persons who are sharing in dock expense and using the area for boat hoist, storage, or tie up.

*(Ord. 130 - Aug. 09 Supp.)*

3. Hoist Assignment. All legal residents and property owners shall be entitled to a single hoist on any dock permitted hereunder.

4. Waiting Lists. Legal residents of the City of Wahpeton and property owners within the City limits applying for dock or hoist privileges on public access areas may be placed on a waiting list if these accesses have already reached capacity as determined by previous provisions herein. Names shall be placed on a list in numerical order as they are filed and received by the City and the resident or property owner shall then be notified by the City when a vacancy occurs or when space becomes available.
5. Nontransferability; Cancellation. A dock assignment permit may be canceled at any time for failure to comply with the aforementioned regulations or when it is in the best interest of the public as determined by the City. Dock privileges are not transferable, except to a spouse or child of a permittee who remains or becomes the owner of the real property in the City of Wahpeton, which had been owned by the permittee. Dock permits or privileges may not be sublet to a third party. Dock privileges granted by the City of Wahpeton are not property rights, do not have any connection to the real property owned by the applicant and may not be sold or transferred with the applicant's real property.

On the date of adoption of the ordinance amendment codified by this subsection, four (4) permittees have two (2) dock spaces. Only one (1) of such spaces may be transferable in accordance with the provisions of the preceding paragraph.

When a permittee relinquishes access dock privileges, such permittee is not entitled to reimbursement for dock investment or expenses. Expenses associated with an access dock are incurred as an exercise of a privilege and not an entitled right of ownership.

*(Repealed by Ord. 130 - Aug. 09 Supp.)*

6. Rights of the General Public. *(Repealed by Ord. 130 - Aug. 09 Supp.)*

#### **139.06 COMMERCIAL DOCKS.**

The City Council may issue permits for a commercial dock extending from public access property owned by the City. Such a commercial dock shall be subject to all the provisions and requirements of this Chapter 139, except Section 139.05(4). In considering whether to grant a commercial dock permit, the Council shall consider the following factors: whether a commercial dock has previously been established at the location; the importance and benefit of the commercial use to the City and its citizens; the potential adverse impact on adjacent or area property owners; the recommendations of City staff; the needs of the applicant; and the availability and suitability of alternative dock locations. As a further general guideline, docks that have been previously established shall normally be allowed to continue, and new commercial docks will normally not be permitted.

#### **139.07 EXCEPTIONS.**

The provisions of this chapter shall not apply to public access areas under dock management agreements with the Department of Natural Resources.



## **BUILDING AND PROPERTY REGULATIONS**

### **CHAPTER 145 - DANGEROUS BUILDINGS**

**145.01 Enforcement Officer**

**145.02 General Definition of Unsafe**

**145.03 Unsafe Building**

**145.04 Notice to Owner**

**145.05 Conduct of Hearing**

**145.06 Posting of Signs**

**145.07 Right to Demolish**

**145.08 Costs**

**145.09 Emergency Abatement Of Dangerous Building**

#### **145.01 ENFORCEMENT OFFICER.**

The Mayor is responsible for the enforcement of this chapter.

#### **145.02 GENERAL DEFINITION OF UNSAFE.**

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

*(Code of Iowa, Sec. 657A.1 & 364.12[3a])*

#### **145.03 UNSAFE BUILDING.**

"Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

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.

#### **145.04 NOTICE TO OWNER.**

The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date of the notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

#### **145.05 CONDUCT OF HEARING.**

If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

#### **145.06 POSTING OF SIGNS.**

The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WAHPETON, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building. ?

#### **145.07 RIGHT TO DEMOLISH.**

In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

#### **145.08 COSTS.**

Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

#### **145.09 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])*

EDITOR'S NOTE: Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

## CHAPTER 146 - MANUFACTURED AND MOBILE HOMES

### 146.01 Definitions

### 146.03 Foundation Requirements

### 146.02 Conversion to Real Property

#### 146.01 DEFINITIONS.

For use in this chapter the following terms are defined:

*(Code of Iowa, Sec. 435.1)*

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

#### 146.02 CONVERSION TO REAL PROPERTY.

A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

*(Code of Iowa, Sec. 435.26 & Sec. 435.35)*

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

#### **146.03 FOUNDATION REQUIREMENTS.**

A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

*(Code of Iowa, Sec. 103A.10 & 414.28)*

***(Ch. 146 - Ord. 92 - Jan. 03 Supp.)***

## **CHAPTER 150 - BUILDING NUMBERING**

### **150.01 Definitions**

### **150.02 Owner Requirements**

### **150.03 Building Numbering Map**

#### **150.01 DEFINITIONS.**

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

#### **150.02 OWNER REQUIREMENTS.**

Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than 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 herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

#### **150.03 BUILDING NUMBERING MAP.**

The Clerk shall be responsible for preparing and maintaining a building numbering map.





## **ZONING ORDINANCE**

### **CHAPTER 165 - ZONING ORDINANCE REGULATIONS**

**See Separate Document to View Chapter 165 Zoning Ordinance Regulations**



## **SUBDIVISION REGULATIONS**

### **CHAPTER 166 – SUBDIVISION REGULATIONS**

<b>166.01 Purpose</b>	<b>166.08 Action by Council Pertaining to Preliminary Plat</b>
<b>166.02 Title and Jurisdiction</b>	<b>166.09 Final Plat</b>
<b>166.03 Definitions</b>	<b>166.10 Required Utilities and Associated Items</b>
<b>166.04 Pre-Submittal Conference</b>	<b>166.11 Final Plat Approval by Council</b>
<b>166.05 Submittal of Preliminary Plat</b>	<b>166.12 Variances</b>
<b>166.06 Supporting Data</b>	<b>166.13 Changes and Amendments</b>
<b>166.07 Action by Commission Pertaining to Preliminary Plat</b>	

#### **166.01 PURPOSE.**

The purpose of this chapter is to provide rules and regulations for the approval of plats, subdivisions, and resubdivisions in the City and of certain areas within two miles of the City limits; prescribing minimum standards for the design layout and development thereof; providing for the preliminary and final approval or disapproval thereof; providing for the enforcement and penalties for the violation thereof; all for the purpose of promoting the adequacy, safety and efficiency of the street and road system; and for the purpose of improving the health, safety and general welfare of the citizens; in accordance with the provisions of Section 354.9 of the Code of Iowa.

#### **166.02 TITLE AND JURISDICTION.**

These regulations shall be known and may be cited as the "Subdivision Ordinance" of the City. Such Ordinance is adopted by the City governing the subdivision of all lands within the corporate limits of the City, and within two miles adjacent to said corporate limits.

#### **166.03 DEFINITIONS.**

For use in this chapter, the following terms or words shall be interpreted or defined as follows.

1. "Alley" means a public right-of-way, other than a street, 30 feet or more in width affording secondary means of access to abutting property.
2. "Block" means a dimensioned parcel of land shown on a subdivision plat with an appropriate ascertainable block number which parcel of land may or may not be further divided into lots. Numbering of blocks shall be such that said number can be used for title transfer and taxing identification of not only the block itself but also the individual lots contained therein.
3. "Building line" (see "setback") is the line established by use of the setback dimensions given in the Zoning Ordinance (Chapter 165 of this Code of Ordinances).
4. "City Engineer" or "engineer" means the engineer or engineering firm duly authorized to represent the City. Said Engineer and/or representatives of said engineering firm shall be licensed in the State in the field

or fields required by the work for which said engineer is retained to design, inspect, oversee and/or pass judgment on.

5. "Cul-de-sac" means a dead-end street.
6. "DCI" means "ductile cast iron."
7. "Easement" means a grant of the right to use a strip of land for the purpose of constructing, reconstructing, operating and maintaining municipal utilities such as, but not limited to, storm sewer, sanitary sewer, water main, gas main, power conductors, telephone conductors, and television conductors.
8. "Lot" means a dimensioned parcel of land shown on a subdivision plat with an appropriate ascertainable lot number and block number which can be used for title transfer and taxing identification.
9. "Metes and bounds description" means a description of a parcel of land using bearings and distances of the boundary of said parcel as opposed to indicating lot and block numbers of a platted subdivision, or by reference to a section, or portion thereof, of land using the section number, township number and range number as established by the rectangular system used in surveying the public lands of the United States.
10. "PCC" means "Portland cement concrete."
11. "Plat" means a drawing on which the subdivider's plan of the subdivision is represented. Said drawing shall comply with provisions required by Chapter 354 of the Iowa Code, as amended, and as required by this chapter.
12. "Setback" (see "building line") means the minimum horizontal distance a structure must be located from the lot line of the lot on which the structure is located. Said distances shall be measured perpendicular to the aforementioned lot line. For purposes of this definition, "structure" includes, but is not limited to, not only the structure proper but all associated appurtenances, both attached and unattached, such as roof overhang, entrance landings and stairs, decks, patios, porches, car ports, gazebos, utility buildings, etc.
13. "Street" means the public right-of-way set aside by platting and/or dedication for public access and shall be synonymous with similar terms such as "avenue," "boulevard," "court," "drive," "road" and "highway."
14. "Street width" means the horizontal width of the street right-of-way as measured perpendicular to the right-of-way centerline.
15. "Subdivide" means the dividing of a tract of land into parcels known as "lots," "blocks," "streets" and "easements" in accordance with Chapter 354 of the Code of Iowa, as amended, and as stipulated in this chapter.
16. "Surveyor" and "land surveyor" mean a land surveyor licensed in the State of Iowa.
17. "VCSP" and "RCP" mean "vitrified clay sewer pipe" and "reinforced concrete pipe," respectively.

**166.04 PRE-SUBMITTAL CONFERENCE.**

Prior to the preparation of a preliminary plat and the required supporting data it is recommended that the subdivider should meet with the Planning and Zoning Commission with the purpose of outlining the proposed subdivision. At this meeting an exchange of ideas should be made in an effort to assure the inclusion of desirable features and elimination of undesirable features in the proposed subdivision. The Commission shall in no way obligate itself and/or the Council at this pre-submittal conference. Official action will be taken only after the preliminary plat and submittal data are submitted as stated below.

**166.05 SUBMITTAL OF PRELIMINARY PLAT.**

Whenever the owner of a tract or parcel of land located within the corporate limits of the City and/or of an unincorporated tract or parcel of land located in the County within two miles of the corporate limits of the City, wishes to make a subdivision of said property, said person shall cause to be prepared by a land surveyor a preliminary plat of said subdivision and shall submit four (4) copies of the preliminary plat to the Clerk for presentation to the Commission for its review and approval. The preliminary plat shall be drawn to a scale of 1" = 100' with all lots, blocks, streets, alleys and easements dimensioned. The outside boundary of the subdivision shall be dimensioned and shall have appropriate bearings shown therefor. The subdivision shall be tied to some corner of the congressional division of which it is a part. Boundary lines of the subdivision that are contiguous with other subdivisions shall be identified as such. Streets shall be named in such manner as to be compatible with the City's existing street names (numbering) system. When such naming (numbering) is not applicable, the subdivider may name the street; however, such name must be reviewed and approved by the Commission. The numbering of blocks and numbering of lots within each block shall commence with number one and be progressively numbered. The subdivision shall be named with brevity as a consideration. A north arrow and a graphic scale shall be shown on the plat.

**166.06 SUPPORTING DATA.**

In addition to the preliminary plat described above, the subdivider shall submit four (4) copies of each of the following supporting data prepared by an engineer:

1. Four copies of a City Plat upon which the proposed subdivision has been added. This drawing is for the purpose of showing the Commission where and how the subdivision fits in with the existing layout of streets, etc. The subdivision as shown on this plat need not be dimensioned and the individual lots need not be shown, but the subdivision shall be drawn to the same scale as the City Map.
2. Four copies of the preliminary subdivision drawing upon which the existing contour lines are shown. Contour intervals shall be determined according to the overall slope of the area being subdivided as follows:

<b>Overall Slope</b>	<b>Contour Interval</b>
0% to 5%	1 foot
5% to 10%	2 feet
10% to 15%	3 feet
15% to 18%	4 feet
18% to 25%	5 feet

Overall slope means the slope as computed using the highest point and the lowest point of the subdivision, and the distance between said points. Elevations shall be based on one of the following datums, which are shown in the order of preference:

- A. Wahpeton City Datum
- B. Dickinson County Datum
- C. Iowa Department of Transportation Datum
- D. U.S. Geological Datum

The elevation and location of not less than three permanent benchmarks (B.M.) shall be shown on the drawing. The drawing shall show, in addition to the contours, the proposed back of curb line and the top of the curb grade (based on a 6-inch curb) at each street intersection (junction) and at each change in street grade. These grades shall be point of intersection (P.I.) grades. The drawing, in addition to the contours and street grades, shall show the location, size and invert elevation of sanitary sewer, storm sewer and water main. Invert elevations for the three utilities shall be shown at all street intersections (junctions) and at each change in street grade and wherever the utility has a change in grade, alignment or size. The location of storm water inlets shall be shown on the drawing along with inlet invert elevations. The size of pipe used to connect the inlet to the storm sewer shall also be shown. If the subdivider so desires, he or she may prepare additional contoured drawings on which each of the three required utility lines are shown, i.e., one for sanitary sewer, one for storm sewer and one for water main. Grades shall be shown to the nearest 0.1 foot. The high water line and the elevation of any adjacent body of water, such as a lake, shall be shown along with a statement pertaining to how said line and elevation was established and verified.

- 3. Four copies of the protective covenants that apply to the subdivision. Said covenants shall include requirements pertaining to "setback," "building line" and shall restrict the erection of buildings and/or fences or other encumbrances such as, but not limited to, trees and bushes on utility easements.

#### **166.07 ACTION BY COMMISSION PERTAINING TO PRELIMINARY PLAT.**

The Commission shall, upon receipt of a preliminary plat by the Clerk with the required supporting data listed above, take action thereon within thirty-one (31) days. "Action" means that the Commission shall review said plat and supporting data and submit it to the Council for its review and approval. The Commission shall provide the Council with one of the following three recommendations:

- 1. That the Commission approves the preliminary plat and supporting data as submitted to them and recommends that the Council accept the preliminary plat and authorize the subdivider to proceed with staking the subdivision and preparing the final plat and legal documents required for final platting.
- 2. That the Commission approves the preliminary plat and supporting data, subject to the following additions, deletions and/or changes: [*Commission to list here the additions, deletions and/or changes it recommends and the reasons therefor.*]
- 3. That the Commission recommends that the Council accept the preliminary plat provided the additions, deletions, and/or changes listed above are made and that the subdivider be authorized to proceed with staking the subdivision and preparing the final plat and legal documents required for final platting.

4. That the Commission does not approve the preliminary plat and/or supporting data for the following reasons: [*Commission to list here the reasons for not accepting the preliminary plat and/or supporting data, and suggestions as to how the plat and/or supporting data can be revised to possibly obtain Commission approval.*]
5. That the Commission recommends that the Council not approve the preliminary plat and/or supporting data and that the subdivider be advised of the above suggestions.

#### **166.08 ACTION BY COUNCIL PERTAINING TO PRELIMINARY PLAT.**

Upon receipt of the Commission's recommendation, the Council shall, within thirty-one (31) days, take action on said recommendation. The Council's action shall consist of:

1. Approving the Commission's recommendation and taking the action it recommends.
2. Rejecting the Commission's recommendation and the Council taking whatever action it deems to be in the best interest of the City, said action to be such that the subdivider can either resubmit the preliminary plat and supporting data, after appropriate revisions, or subdivider is advised that plat as submitted is unapprovable.

In either case the intent of the action should be clearly spelled out and the reason for said action given.

#### **166.09 FINAL PLAT.**

Upon receiving authorization from the City Council to stake the subdivision and prepare the final plat and legal documents required for final platting, the subdivider shall do so within two (2) years of the date of authorization. In the event that the subdivision has not been staked and properly recorded within two (2) years of receiving authorization to do so, all approvals and authorization to proceed shall become null and void. Preparation of the final plat and legal documents for filing said plat shall be in keeping with Chapter 354 of the Iowa Code, as amended, and as specified below:

1. The plat shall show the name of the subdivision. Said subdivision name shall be followed with "Wahpeton, Dickinson County, Iowa."
2. A north arrow shall be shown for orientation purposes along with a graphic scale.
3. The names of all streets shall be shown within the street right-of-ways.
4. All blocks shall be numbered commencing with the number one and running consecutively therefrom.
5. All lots within each block shall be numbered commencing with the number one and running consecutively therefrom.
6. All blocks, lots, streets, alleys and easements shall be dimensioned in feet. Fractional dimensions shall be shown to the nearest 0.01-foot.
7. Lot corners shall be marked with not less than 1/2-inch reinforcing rod 16 inches in length with an appropriate plastic or metal cap giving the land surveyor's license number. Block corners and tangent points of all curves shall be marked with a reinforced concrete monument measuring not less than 3 inches by 3 inches by 3 feet in length. Said monument shall be reinforced for its full length with a 1/2-

inch reinforcing rod that protrudes approximately 1 inch from the concrete for receiving an appropriate plastic or metal cap giving the land surveyor's license number.

8. All curves shall be tangent at points of continuation with other curves and/or straight lines. The radius of all curves shall be shown along with the chord distance where applicable.
9. All lot lines, where they intersect the boundary line of a street shall be perpendicular thereto. Where lot lines intersect a curved street boundary line, the lot line shall be located on a radius line of said curve or on the extension of a radius line.
10. The final plat as presented to the City for approval and for recording purposes shall be an inked drawing on mylar (or equal) having a page size of 8 1/2 inches by 14 inches. If the subdivision is of such size that reducing the plat to this size is impractical, the plat shall be divided into as many drawings as are necessary to meet the drawing size criteria. Match points shall be provided on the drawing for purposes of orientation. The reduced drawing shall not have a scale smaller than 1" = 200'. (For purposes of this text, a scale of 1" = 300' would be smaller.) All dimensions, notes, etc., shall be legible.
11. The City's Zoning Ordinance specifies the minimum required lot area, lot width, front yard, side yard and rear yard requirements. (See Chapter 165.)
12. Street right-of-ways shall have a minimum width of 60 feet; however, a 10-foot utility easement shall be provided immediately adjacent to each side of the street giving a total minimum width for utilities of 80 feet (10 + 60 + 10 = 80). The 10-foot utility easements required above shall be used for sanitary sewer mains and gas mains and service lines only. All appurtenances for utilities located in said 10-foot utility easements shall be below ground. Power lines, television lines and telephone lines and associated appurtenances shall be located in utility easements located at the rear of all lots. Said easements shall be not less than 20 feet in width and may be located entirely on one lot or may be located partly on each of the abutting lots. If located entirely on one lot the easement line shall be contiguous with the lot line so that the abutting property has access to the easement. It is recommended that the easement be divided equally between the abutting lots. Appropriate easements shall be provided on the sides of lots to connect the easements located on the rear of the lots to the street right-of-way for purposes of street lighting conductors only. These easements shall have a total width of not less than 12 feet. For a guide to placing these easements it can be assumed however, the subdivider shall confer with the electrical company providing street lighting and with the Council for approval of street light location and easement location. Easements shall not be used for ingress and egress to lots located along the routing of the easement but rather shall be used only for the construction, reconstruction, operation and maintenance of utilities located therein. Under no circumstances will an easement be used as an alley for vehicular traffic other than utility construction and maintenance vehicles.
13. The use of cul-de-sacs with turnarounds is discouraged; however, when found to be absolutely necessary, the street right-of-way for turnarounds shall have a radius of not less than 50 feet and the length of the cul-de-sac shall be not more than 300 feet as measured from the center of the turnaround to the street to which the cul-de-sac connects.
14. It is the intent of this chapter to eliminate the platting of alleys; however, the City realizes that conditions can exist where an alley is desirable. Under these special conditions, platting of an alley will be given consideration provided it is not less than 30 feet in width and is not intended to serve residential garages abutting thereto.

15. All lots shall be so shaped and positioned that they abut a platted public street. The length of the lot line abutting a curved public street shall be not less than 50 feet as measured along said lot line. The chord width of such a lot shall be not less than 75 feet at the front building line. For the convenience of taxing authorities, etc., the subdivider shall file with the City and County at the time of filing the final plat a schedule showing the area of each lot contained in the subdivision, the area of each block contained in the subdivision, the area of all streets and alleys contained in the subdivision, and the area of the entire tract being subdivided.
16. Block size is no longer an easily definable criteria inasmuch as curved streets with their adjacent lots do not resemble squares and rectangles; however, it is the intent of this chapter to limit the distance between street intersections and/or street junctions to 900 feet. Consideration will be given to wider and/or longer blocks than indicated in the Zoning Ordinance when topography dictates and/or when areas such as ravines, draws, wooded areas, etc., are located within a block and are to be permanently retained as public waterways, parks, green areas, etc.

#### **166.10 REQUIRED UTILITIES AND ASSOCIATED ITEMS.**

The contractor shall be responsible for providing at no cost to the City the following utilities and associated items:

1. Sanitary sewer with service lines that terminate at the lot line of the lot it is intended to serve. Sewer to include all appurtenances normally associated with a sanitary sewer such as manholes, etc. Plans and specifications for the sanitary sewer shall be approved prior to construction by A) Iowa Department of Natural Resources, B) Iowa Great Lakes Sanitary District, C) Wahpeton City Council and D) County, State and Federal Agencies having jurisdiction over such utility. All sanitary sewer mains and service lines shall be fabricated of extra strength vitrified clay sewer pipe (VCSP) having factory fabricated joints conforming to ASTM Standard C700 and C425. Subdivider is to provide City with appropriate ties to the location of all ends of service lines. Ties are to be tied to appropriate lot corners. All trench backfill shall be compacted to the same or greater density as the original undisturbed soil.
2. Storm sewer with storm water inlets and connecting pipe, settling basins and associated appurtenances such as manholes, etc. Plans and specifications for storm sewer shall be approved prior to construction by A) Iowa Department of Natural Resources, if applicable, B) Wahpeton City Council, and C) County, State and Federal Agencies having jurisdiction over such utility. All storm sewer mains and service lines serving inlets, etc., shall be fabricated of reinforced concrete culvert pipe (RCP) conforming to ASTM Standard C 76. Storm sewer design shall be based on a rainfall intensity of not less than 2 inches per hour. Higher rates shall be used when appropriate. Joints in storm sewer pipe and associated appurtenances shall be sealed with an appropriate joint sealing compound to prevent both exfiltration and infiltration. All trench backfill shall be compacted to the same or greater density as the original undisturbed soil.
3. Water main with service lines that terminate at the lot line of the lot they are intended to serve and fire hydrants equipped with auxiliary valves. Hydrants are to leave one 4-inch pumper nozzle and two 2 1/2-inch fire hose nozzles. Hydrant threads are to be compatible with fire fighting equipment used by the City. The make of hydrant shall be subject to City's approval. Water mains shall be sized to provide not less than 500 gpm to each fire hydrant located in the subdivision and under no circumstances be less than 6 inches in diameter. All water mains shall be looped. Water mains shall be constructed of ductile case iron (DCI) pipe designed for a working pressure of not less than 150 psi Said pipe and

fittings shall have "push-on" or "mechanical" joints. The pipe and fitting shall have standard cement lining with bituminous seal coat and have a wall thickness of not less than 0.34 inch (ANSI Thickness Class 3). Service lines shall be constructed of soft temper copper tubing and be one inch in size. Service lines shall connect to the main with 1- inch corporation cocks and shall terminate at a point 1 foot onto private property with a 1-inch curb stop. Subdivider is to provide City with appropriate ties to the location of all curb stops. Ties are to be appropriate to lot corners. The new mains shall be appropriately valved. Said valves are to be provided with cast iron valve boxes. All water mains and service lines shall be located to have not less than 6 feet 6 inches of cover after the street and/or easement in which they are located are brought to grade. Fire hydrants shall be located in such a manner that no lot located within the new subdivision is more than 300 feet from a fire hydrant as measured along public street right-of-way. Plans and specifications for the water main and associated appurtenances are to be approved prior to construction by (1) State Department of Natural Resources, (2) the Council, and (3) County, State and Federal Agencies having jurisdiction over such utility. All trench backfill shall be compacted to the same or greater density as the original undisturbed soil.

4. The subdivider shall cause to be installed in the subdivision at no cost to the City, when such utilities are readily available to the area, natural gas mains, electrical lines, street lighting, cable TV lines and telephone lines. As stated above, the gas main shall be located in one of the easements located adjacent to the street right-of-way and the electric, TV and telephone lines shall be located in the easements located at the rear of the lots. All transformer boxes, junction boxes, poles, etc. shall be located at the edge of the easement strip so that access along the easement strip with construction and maintenance equipment is possible. All trench backfill shall be compacted to the same or greater density as the original undisturbed soil.
5. Paving shall be provided by the subdivider at no cost to the City. Paving shall be constructed of Portland cement concrete (PCC) having a cement content of not less than 6 sacks (564 pounds) per cubic yard and an entrained air content of from 6 to 7 percent. The paving shall be 31 feet wide as measured from back of curb to back of curb normal to the payment centerline. Six-inch monolithic curb shall be constructed on each edge of the pavement. Returns at street intersections and junctions shall have radii of not less than 17.5 feet. Handicap ramps shall be provided according to Section 216C of the Code of Iowa. All pavement shall be continuously reinforced with No. 4 reinforcing rods spaced at 3-foot centers transversely, and at 3-foot centers longitudinally in such manner as to have 12 longitudinal reinforcing rods. Pavement shall be provided with transverse sawed contraction joints at 15-foot centers and with longitudinal sawed contraction joints located 5 feet 6 inches from the back of curbs and at the pavement's centerline (total of 3 sawed longitudinal joints). The pavement shall be given an astro-turf finish. All pavement shall be appropriately cured with a commercial curing compound. Plans and specifications for pavement and associated appurtenances to be approved, prior to construction, by the Council.
6. The subdivider shall incorporate in each subdivision storm water management features sufficient to manage and filter a water quantity volume of 1.25 inches of rainfall in a twenty-four (24) hour period. Storm water management features shall utilize infiltration elements to provide for the maximum filtration of suspended solids, to maximize detention time and to reduce the amount and period of runoff, all pursuant to the Iowa Storm Water Management Manual and certified by an Iowa registered engineer, an Iowa registered landscape architect, or by the Dickinson County Soil and Water Conservation District.

*(Ord. 121 - Aug. 09 Supp.)*

Construction of the required utilities and improvements listed above shall be performed prior to the subdivider submitting to the Council the final plat for approval. The subdivider shall certify to the City that all materials and labor incorporated into said utilities and improvements have been paid for. The subdivider shall cause to be submitted to the City a certificate from the Engineer in charge of construction that the utilities and improvements were constructed in accordance with the plans and specifications approved by the City. In lieu of constructing all or part of the required utilities and improvements before submitting the final plat to the City the subdivider may establish an escrow account that is supervised (controlled) by the City in an amount equal to 100% of the estimated cost of the utilities and improvements including legal and engineering costs. The estimate shall be prepared by the subdivider and shall require approval of the Council and/or City Engineer to be valid. Funds from the escrow account shall be used to pay for utilities, improvements, legal and engineering costs. Funds will be withdrawn on the basis of the estimate used for establishing the escrow account, i.e., funds will be withdrawn only to the extent of the estimate with the subdivider paying any overrun on an individual item basis. Example: If the cost of providing water main and associated appurtenances amounts to \$100,000 and only \$95,000 was included in the escrow account for said item, only \$95,000 will be withdrawn with the subdivider paying the \$5,000 differential. Funds accumulated from cost under-runs shall be maintained in the escrow account until all utilities and improvements have been completed and approved by the City, after which time it shall be returned to the subdivider. Interest accrued by the escrow account, if not needed for paying for utilities and improvements, shall be returned to the subdivider at the time the unused portion of the escrow account is returned. All utilities and improvements shall be made within two years of the time the escrow account is established and the plat is filed. In the event that said improvements and utilities are not completed in the two-year time limit stated above, the City shall have the right to use the escrow account funds for providing those utilities and improvement not provided and assessing any deficiencies in said funds to property contained in the subdivision and/or the subdivider. The subdivider shall be responsible for any damage caused to utilities and associated facilities, both public and private, caused by the settlement of trenches and/or excavations made in connection with the installation of utilities and associated facilities by the subdivider. Said liability shall also apply to private installations such as driveways that are constructed over and across utility ditches. Liability shall extend for a period of two years

from and after the date of completion and acceptance by the City of each of the utilities constructed in the subdivision. The subdivider or contractor shall furnish a good and sufficient bond in the amount of the contract cost for repairs necessitated by defects in material or workmanship involved in the construction of the required utilities and associated items. Said bond shall run for a period of two years from and after the date of approval of the utilities and associated items by the City.

#### **166.11 FINAL PLAT APPROVAL BY COUNCIL.**

Upon completion of staking all lots, blocks, streets and alleys within the subdivision and the boundary of said subdivision as specified above and as required by Chapter 354 of the Code of Iowa, and after installing all of the utilities and associated items required above, the subdivider shall submit to the Council:

1. Two copies of the final plat on mylar as specified above and four blue-line prints of said plat.
2. One set of as-built plans of each of the utilities and associated items constructed within the subdivision. Said plans shall be inked drawings on mylar (or equal) so that they can be readily reproduced. The drawings shall have a statement thereon by the Engineer in charge of the project indicating that the work was performed in accordance with the plans and specifications.
3. A maintenance bond covering the material and workmanship of utilities and associated items as specified above.

4. All other items required by Chapter 354 of the Code of Iowa, as amended, for the platting of subdivisions.

In lieu of providing the "as-built" drawings of installed utilities, the subdivider may provide the funds for an escrow account as described above; however, after construction of the required utilities and associated items the subdivider shall submit the "as-built" drawings required under subsection 2 above and the maintenance bond required under subsection 3 above. Upon receipt of the above items, the Council shall act thereon and within thirty-one (31) days either to approve the final plat, the utilities and associated items constructed therein and the "as-built" drawings and have the subdivider proceed with recording the plat at the County Courthouse as required under Chapter 354 of the Code of Iowa, or the Council shall refuse approval, stating the reasons therefor. In the event that the subdivider prefers to provide an escrow account in lieu of immediately constructing the required utilities and associated items, the Council shall approve or disapprove the plat for platting purposes and at a later date approve or disapprove the utilities, the "as-built" plans thereof and the maintenance bond for said utilities and associated items. The approval of the Council shall in no way relieve the subdivider from the responsibility of supplying and properly installing (constructing) any of the items listed above as a requirement to subdividing.

#### **166.12 VARIANCES.**

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements and in no instance shall it be in conflict with any zoning ordinance and such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.

#### **166.13 CHANGES AND AMENDMENTS.**

Any regulations or provisions of this regulation may be changed and amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law.

## **CHAPTER 167 – LANDS DEDICATED TO THE PUBLIC USE**

### **167.01 LANDS DEDICATED TO THE PUBLIC USE.**

The City of Wahpeton hereby accepts title in and to any and all lands within the corporate City limits of the City of Wahpeton which have been and/or which shall be dedicated to the public use.

*(Ch 167 - Ord. 80 - Dec. 02 Supp.)*

## **CHAPTER 168 – COMMUNICATION TOWERS**

**168.01 Purpose and Scope.**

**168.02 Definitions.**

**168.03 Contractor's License.**

**168.04 Location of Cellular Antennas.**

**168.05 Permit.**

**168.06 Communications Tower Regulations.**

**168.07 Joint Use.**

**168.08 Abandoned or Obsolete Towers.**

### **168.01 PURPOSE AND SCOPE.**

The purpose of this chapter is to provide for the location, placement and regulation of cellular antennas; to regulate the location, construction and maintenance of communications towers; to provide for the licensing and regulation of contractors engaged in the construction of communications towers in the City; and to require permits for cellular antennas and communications towers in the City. The provisions of this chapter shall apply to all cellular antennas and communications towers in the City.

### **168.02 DEFINITIONS.**

For use in this chapter, the following words are defined:

1. "Cellular antenna" means an antenna mounted more than fifty feet (50) above ground level, in a fixed location, for the purpose of facilitating and enabling wireless cellular telephone communication.
2. "Communications towers" means an independent structure of a height more than fifty feet (50) above ground level used for transmitting or receiving wireless communications.
3. "Contractor" means any person or entity who engages in the placement or construction of any communications tower in the City.
4. "Engineer" means a registered professional engineer certified under the laws of the State.

### **168.03 CONTRACTOR'S LICENSE.**

No person shall engage in the construction, erection or placement of a communications tower or cellular antenna in the City unless licensed pursuant to this section. A contractor's license will be issued by the City Clerk upon submission of a written application on forms obtained from the City Clerk and upon fulfilling the fee, bonding and insurance requirements specified herein. The licensing period shall be from February 1 to January 31.

1. Fee. The license fee for a contractor's license for the licensing period, or any part thereof, shall be fifty dollars (\$50.00).
2. Surety Bond. A surety bond in the amount of ten thousand dollars (\$10,000.00) shall be filed in favor of the City. Such bond must run throughout the licensing period and shall be conditioned upon the faithful compliance of all ordinances, rules or regulations of the City applicable to communications towers.
3. Insurance; Assumption of Liability. Any person licensed as a contractor must file proof of liability

insurance in the amount of at least five hundred thousand dollars (\$500,000.00) per person, one million dollars (\$1,000,000.00) per occurrence, and five hundred thousand dollars (\$500,000.00) for property damage with the City Clerk and must agree, in writing on forms provided by the City Clerk, to hold the City harmless from any and all damages claimed by reason of negligence, incompetence or omission on the part of the contractor in the performance of its work.

#### **168.04 LOCATION OF CELLULAR ANTENNAS.**

1. The preferred location for cellular antennas in the City is for cellular antenna to be mounted on the City water tower. The City Council shall approve all requests for the placement and attachment of a cellular antenna on the City water tower, shall determine whether such location is possible, shall determine when and how the attachment shall be made, and shall approve all terms and provisions of an attachment agreement between the cellular antenna owner and the City, including the fees or charges to be paid by the owner to the City.
2. Only in the event that the placement of a cellular antenna on the City water tower is disapproved by the City Council may a cellular antenna be placed on a communications tower in the City.

#### **168.05 PERMIT.**

No communications tower shall be placed in the City without a permit issued by the City.

1. Application. Application for a communications tower permit shall be made to the City Clerk on forms provided by the City for that purpose.
2. Special Exception. No communications tower permit shall be issued until the proposed location of the tower has been approved by the grant of a special exception by the City Board of Adjustment pursuant to the applicable provisions of this Code.
3. Permit. A permit for the construction and maintenance of a communications tower shall be issued to the owner of the tower as specified in the application only upon compliance with all applicable ordinances of the City. The permit shall be of indefinite duration and shall remain in effect so long as the tower remains in compliance with all applicable City ordinances. A communications tower permit may be revoked by the City Council upon notice to the owner and following opportunity for a hearing before the City Council, for a violation of any applicable City ordinance, State statute or regulation, or Federal statute or regulation.
4. Issuance. The issuance of a permit under this section shall not relieve any permittee from compliance with all legal requirements, nor relieve the permittee of any liability for damage or loss resulting from the placement, construction or maintenance of the tower. The City assumes no liability whatsoever by virtue of the issuance of a communications tower permit. The permit shall be maintained at the tower site.
5. Permit Fee. The fee for each permit issued under the provisions of this section shall be five hundred dollars (\$500.00).

## **168.06 COMMUNICATIONS TOWER REGULATIONS.**

All communications towers located in the City shall be subject to the following regulations:

1. Engineer's Certification. Applications for a communications tower permit shall include detailed plans and specifications certified by an engineer. Upon completion of construction, the engineer shall further certify that the tower has been constructed in conformity with the plans and specifications.
2. Minimum Setback. The minimum distance from the base of the tower to the closest property line of the tower site shall not be less than sixty percent (60%) of the tower height.
3. Enclosure. The tower base shall be completely enclosed by a fence or wall eight feet (8') in height designed, constructed and maintained to prevent unauthorized access to the tower. There shall also be established and maintained vegetative screening of evergreen trees of at least six feet (6') in height surrounding the tower enclosure located fifteen feet (15') from the wall or fence, except that an open vehicular access may be provided.
4. EMF Emissions. All towers shall be maintained and operated in compliance with the standards adopted by the Federal Communications Commission concerning electromagnetic field emissions.
5. Maximum Height. No tower shall exceed a height of two hundred feet (200').
6. Towers shall be "mono-pole" type only, designed and constructed to accommodate not less than five (5) communications antennas.
7. Maintenance. All towers shall be maintained such that the appearance remains, in all respects, as when originally installed.
8. Signs Prohibited. No advertising or signage of any type is permitted on a communications tower.

## **168.07 JOINT USE.**

In order to avoid unnecessary duplication of communications towers in the City, businesses engaged in wireless communication requiring the use of communications towers are required to consider joint or multiple use of all existing and proposed towers. An application for a communications tower permit shall include a verification that the applicant has considered use of existing towers and shall include a detailed explanation establishing that the use of an existing tower is economically or technically not feasible. Each owner of a tower placed and constructed pursuant to a permit issued under this chapter shall, to the extent technically feasible, lease tower capacity to other wireless communication providers at commercially reasonable rates and terms.

## **168.08 ABANDONED OR OBSOLETE TOWERS.**

Towers, which become abandoned or obsolete, shall be removed within twelve (12) months of the discontinuance of use for wireless communications.

# AIRPORT ZONING

## CHAPTER 169 AIRPORT ZONING

<b>Section 1. Introduction</b>	<b>Section 12. Airport Zoning Ordinance Administration</b>
<b>Section 2. Authority</b>	<b>Section 13. Airport Zoning Permits</b>
<b>Section 3. Statement of Purpose and Findings</b>	<b>Section 14. Hazardous Markings and Lighting</b>
<b>Section 4. Short Title</b>	<b>Section 15. Height Limitations</b>
<b>Section 5. Applicability</b>	<b>Section 16. Airport Board of Adjustment</b>
<b>Section 6. Definitions</b>	<b>Section 17. Variances</b>
<b>Section 7. Air Space Obstruction Zones &amp; Airport Overlay Zoning Maps</b>	<b>Section 18. Judicial Review</b>
<b>Section 8. Airport Zoning Requirements</b>	<b>Section 19. Penalties and Fines</b>
<b>Section 9. Nonconformities</b>	<b>Section 20. Conflicting Regulations</b>
<b>Section 10. Land Use Safety Zones</b>	<b>Section 21. Severability</b>
<b>Section 11. Land Use Zone Compatibility</b>	<b>Section 22. Effective Date</b>

### SECTION 1. INTRODUCTION

This ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses; otherwise regulating the use of property, within the vicinity of the Spirit Lake Municipal Airport. Creation of appropriate zones and establishing the boundaries thereof, as well as providing for changes in the restrictions and boundaries of such zones is vested in this ordinance. The Spirit Lake Airport Land Use & Height Zoning maps are incorporated into and made part of this ordinance. This document also provides for the enforcement of the provisions contained within this ordinance, the establishment of an Airport Zoning Board of Adjustment; and imposition of penalties related to the implementation of the ordinance.

This ordinance is intended to supplement and interpreted as a zoning overlay in addition to the regular zoning regulations of the municipalities or county in which the airport zoning boundaries cover. Those affected governmental jurisdictions affected by this ordinance are the City of Spirit Lake, Iowa; City of Okoboji, Iowa; Dickinson County, Iowa and portions of the City of Arnolds Park, Iowa and the City of Wahpeton, Iowa. The 2013 Spirit Lake Airport Land Use & Height Overlay Zoning Ordinance is created by the City of Spirit Lake and the Spirit Lake Airport Commission with assistance from DGR Engineering of Rock Rapids, IA and Northwest Iowa Planning and Development Commission (NWIPDC) of Spencer, IA.

### SECTION 2. AUTHORITY

Iowa Code Section 329.3, Airport Zoning, empowers local municipalities to zone airports including dividing such area into zones, and within such zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the heights to which structures and trees may be erected or permitted to grow.

### SECTION 3. STATEMENT OF PURPOSE AND FINDINGS

The Spirit Lake Municipal Airport is acknowledged as an essential public facility to the State of Iowa and the local community. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Spirit Lake Municipal Airport. There shall be no creation or establishment of a hazard that neither endangers public health, safety, welfare, and affects an individual's quality of life nor prevents the safe movement of aircraft at the Spirit Lake Municipal Airport.

For the protection of the public health, safety, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards. The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power. The prevention of new airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards, are considered to be a public purpose for which the City of Spirit Lake, City of Okoboji and/or Dickinson County may raise and expend public funds, as an incident to the operation of airports, to acquire or property interest therein.

### SECTION 4. SHORT TITLE

This ordinance shall be known and may be cited as the **Spirit Lake Airport Zoning Ordinance**, and it is referred to as the "Ordinance" or "Airport Zoning Ordinance" within the following document.

### SECTION 5. APPLICABILITY

This ordinance encompasses a general area consisting of a 9,000 linear feet radius from the existing runway at the Spirit Lake Municipal Airport. Specific dimensions associated with the zoning boundary are shown in the Airport Land Use & Height Overlay Zoning Maps. See Exhibit A.

### SECTION 6. DEFINITIONS

The following definitions shall be utilized for terms as appropriate to the ordinance.

- 6.1 **Airport.** *(FAA FAR Sec. 152.3)*  
Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition. The Spirit Lake Municipal Airport is owned by the City of Spirit Lake, Iowa.
- 6.2 **Airport Elevation.** *(FAA AC 150/5190-4A)*  
The highest point on an airport's usable landing area measured in feet from sea level.
- 6.3 **Airport Hazard.** *(FAA FAR Sec. 152.3)*  
Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstructs the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.
- 6.4 **Airport Layout Plan (ALP).** *(FAA FAR Sec. 152.3)*  
The plan of an airport showing the layout of existing and proposed airport facilities.
- 6.5 **Airport Overlay Zones.**  
A zone intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and RPZs have been combined to

create five airport overlay zones. The five specific zones create a comprehensive area focused on maintaining compatible land use around airports.

- **Zone A [Runway Protection Zone]** - is intended to provide a clear area that is free of above ground obstructions and structures. This zone is closest to the individual runway ends.
- **Zone B [Approach Surface]** - is a critical overlay surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway.
- **Zone C [Transitional Surface]** - includes those areas that are parallel to the runway pavement and extend from the edge of the primary surface.
- **Zone D [Horizontal Surface]** - is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.
- **Zone E [Conical Surface]** - is the outermost zone of the overlay areas and has the least number of land use restriction considerations. Zone E begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.

6.6 **Airport Zoning Permit.**

A permit allowing new development, alteration or expansion of a nonconforming use.

6.7 **Airspace.**

The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.

6.8 **Airport Land Use & Height Overlay Zoning Map.**

The airport land use & height overlay zoning map is compiled from the criteria in FAR Part 77, "Objects Affecting Navigable Airspace." It shows the area affected by the Airport Overlay Zoning Ordinance, and includes the layout of runways, airport boundaries, elevations, and area topography. Applicable height limitation areas are shown in detail.

6.9 **Approach Slope.** (*FAR Part 77*)

The ratio of horizontal to vertical distance indicating the degree of inclination of the Approach Surface. The ratio is 20:1 for all utility and visual runways extended from the primary surface a distance of 5,000 feet.

6.10 **Approach Surface.** (*FAA AC 150/5190-4A*)

A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

6.11 **City.**

The City of Spirit Lake, Iowa.

6.12 **Compatibility.**

The degree to which land uses or types of development can coexist or integrate.

6.13 **County.**

Dickinson County, Iowa.

6.14 **Easement.** (*FAA AC 5020-1*)

The legal right of one party to use a portion of the total rights in real estate owned by another party. This may include the right of passage over, on, or below property; certain air rights above the property, including view rights; and the rights to any specified form of development or activity, as well as any other legal rights in the property that may be specified in the easement document.

- 6.15 **Federal Aviation Administration (FAA).**  
A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promoting the development of a national system of airports.
- 6.16 **Federal Aviation Regulations (FAR).** (*FAA FAR*)  
Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.
- **FAR Part 36.** (*FAA FAR Sec. 36.1*) Regulation establishing noise standards for the civil aviation fleet.
  - **FAR Part 91.** (*FAA FAR Sec. 91.1*) Regulation pertaining to air traffic and general operating rules, including operating noise limits.
  - **FAR Part 150.** (*FAA FAR Sec. 150.1*) Regulation pertaining to airport noise compatibility planning.
  - **FAR Part 161.** (*FAA FAR Sec. 161.1*) Regulation pertaining to notice and approval of airport noise and access restrictions.
  - **FAR Part 77.** (*FAA FAR Sec. 77.1*) Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.
- 6.17 **General Aviation Airport.**  
Any airport that is not an air carrier airport or a military facility.
- 6.18 **Height.**  
Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Official Height Zoning Map; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.
- 6.19 **Imaginary Surfaces.** (*FAA FAR Part 77.25*)  
Those areas established in relation to the airport and each runway consistent with FAR Part 77 in which any object extending above these imaginary surfaces, by definition, is an obstruction.
- **Transitional surface.** The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.
  - **Horizontal surface.** The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.
  - **Conical surface.** The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet.
  - **Approach surface.** The approach surface is longitudinally centered on an extended runway centerline, and extends outward and upward from the end of the runway primary surface.

- 6.20 **Incompatible Land Use.** *(FAA FAR Sec. 150.7)*  
The use of land which is normally incompatible with the aircraft and airport operations (such as, but not limited to, homes, schools, nursing homes, hospitals, and libraries).
- 6.21 **Land Use Compatibility.**  
The coexistence of land uses surrounding the airport with airport-related activities.
- 6.22 **Lighting and Marking of Hazards to Air Navigation.**  
Installation of appropriate lighting fixtures, painted markings or other devices to such objects or structures that constitute hazards to air navigation.
- 6.23 **Mitigation.**  
The minimization, reduction, elimination or compensation for adverse environmental effects of a proposed action.
- 6.24 **Noise Impact.**  
A condition that exists when the noise levels that occur in an area exceed a level identified as appropriate for the activities in that area.
- 6.25 **Noise Sensitive Area.** *(FAA AC 91-36D)*  
Defined as an area where noise interferes with normal activities associated with the area's use. Examples of noise-sensitive areas include residential, educational, health, and religious structures and sites, and parks, recreational areas (including areas with wilderness characteristics), wildlife refuges, and cultural and historical sites where a quiet setting is a generally recognized feature or attribute.
- 6.26 **Non-Conforming Use.** *(FAA Web site)*  
Any pre-existing structure, tree, or use of land that is inconsistent with the provisions of the local land use or airport master plans.
- 6.27 **Object.** *(FAA AC 150/5300-13)*  
Includes, but is not limited to above ground structures, navigational aids, people, equipment, vehicles, natural growth, terrain, and parked aircraft.
- 6.28 **Obstacle Free Zone (OFZ).** *(FAA 150/5300-13)*  
The OFZ is the airspace below 150 feet (45 m) above the established airport elevation and along the runway and extended runway centerline that is required to be clear of all objects, except for the frangible visual NAVAID's that need to be located in the OFZ because of their function, in order to provide clearance protection for the aircraft landing or taking off from the runway, and for missed approaches.
- 6.29 **Obstruction.** *(FAA AC 150/5190-4A)*  
Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, specific to its geographic location relative to the runway/airport.
- 6.30 **Overlay Zone.**  
A mapped zone imposing requirements in addition to those of the underlying zoning district.
- 6.31 **Primary Surface.** *(FAA AC 150/5190-4A)*  
A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in FAR Part

77. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- 6.32 **Primary Runway.** *(FAA AC 150/5325-4B)*  
The runway used for the majority of airport operations. Large, high-activity airports may operate two or more parallel primary runways.
- 6.33 **Public Use Airport.** *(FAA AC 150/5190-6)*  
Means either a publicly owned airport or a privately owned airport open for public use.
- 6.34 **Runway Protection Zone (RPZ).** *(FAA AC 150/5300-13)*  
An area off the runway end designed to enhance the protection of people and property on the ground.
- 6.35 **Structure.**  
Any object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.
- 6.36 **Variance.**  
An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land that is prohibited by a zoning ordinance. A lawful exception from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or unnecessary hardships by the petitioner being required to comply with the regulations and standards from which a variance is sought.
- 6.37 **Visual Approach.**  
An approach to an airport conducted with visual reference to the terrain.
- 6.38 **Visual Runway.** *(FAA AC 150/5300-13)*  
A runway without an existing or planned straight-in instrument approach procedure.
- 6.39 **Wildlife Hazards.**  
Wildlife (birds, mammals, reptiles), including feral animals and uncontrolled domesticated animals associated with aircraft strike problems, and capable of causing structural damage to airport facilities or attractants to other wildlife that pose a strike hazard.

## SECTION 7. AIR SPACE OBSTRUCTION ZONES & AIRPORT OVERLAY ZONING MAPS

The zones established by this ordinance are illustrated on the official Spirit Lake Municipal Airport Land Use & Height Overlay Zoning Map consisting of two (2) sheets, prepared by DGR Engineering, attached as Exhibit A to this Ordinance. Such Official Airport Land Use & Height Overlay Zoning Map may be amended from time to time, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this ordinance.

## SECTION 8. AIRPORT ZONING REQUIREMENTS

In accordance with Section 329.10, Iowa Code, there are three (3) principal airport zoning requirements supported by additional information contained within the following remaining sections of this ordinance. These basic zoning requirements state:

1. All airport zoning regulations adopted under this chapter shall be reasonable and none shall impose any requirement or restriction that is not necessary to make effective the purposes of this ordinance.

2.
  - a. Airport zoning regulations adopted under this ordinance may require the removal, lowering, or other change or alteration of any structure or tree, or a change in use, not conforming to the regulations when adopted or amended.
  - b. Airport zoning regulations adopted under this ordinance may require a property owner to permit the city to install, operate, and maintain on the property markers and lights as necessary to indicate to operators of aircraft the presence of the airport hazard, when adopted or amended.
3. All such regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

The City of Spirit Lake, City of Okoboji and/or Dickinson County will be responsible for the initial removal of trees, structures, or other natural or man-made obstructions that are not conforming to the regulations of this ordinance when adopted or amended. Such removal or alteration costs of natural or man-made structures may be assisted through IDOT grants applied for by the Spirit Lake Municipal Airport. Any subsequent alterations or removal of any natural or man-made obstructions to the Spirit Lake Municipal Airport or its airspace will be the responsibility of the property owner.

## **SECTION 9. NONCONFORMITIES**

It is the intent of this ordinance to permit legal nonconforming buildings, structures, or natural resources to continue until they are removed but not to encourage their continuance, unless such nonconforming use is determined by the FAA to be a hazard within one of the airport zones and must be altered or changed in accordance with FAA regulations. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used to add other nonconforming structures prohibited elsewhere in the defined airport zones. In accordance with Section 329.10, Iowa Code, and stated above in Section 8. of this ordinance, any preexisting nonconforming structure, tree, or land use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted. With that stated, where a lawful building or structure exists prior to the effective date of adoption or amendment of this ordinance that cannot be built under the terms of this airport ordinance by reason of restrictions on height or land use compatibility, such structure may be continued so long as it remains otherwise lawful and in compliance with FAA regulations; subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its nonconformity. Such structure may be enlarged or altered that does not increase its nonconformity.
2. Should such nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost, it shall be reconstructed only in conformity with the provisions of this airport ordinance.
3. Should any nonconforming structure be moved within the boundaries of any of the five (5) airport zones for any reason or for any distance whatever, it shall thereafter conform to the regulations of this airport zoning ordinance.
4. Discontinuance. In the event a nonconforming building, structure or use is discontinued for a period of one (1) year, the height or land use compatibility shall conform thereafter to the provisions of this airport zoning ordinance.

On any nonconforming building or structure, work may be done on ordinary repairs or replacement of non-bearing walls not exceeding fifty percent (50%) of the assessed value of the building, provided the cubic

content of the building shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official. There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, buildings or structures.

**SECTION 10. LAND USE SAFETY ZONES**

FAR Part 77 Surfaces and Runway Protection Zones have been combined to create five (5) airport overlay zones. These five zones are designed to maintain compatible land uses around the Spirit Lake Municipal Airport. The zones shall be evaluated for compatible land uses. Specific dimensions for the individual zones for each runway end are noted in the following tables and text. The Airport Land Use & Height Overlay Zoning Maps should be evaluated to determine the specific area of impact associated with each zone.

**Zone A – Runway Protection Zone (RPZ)**

Zone A is intended to provide a clear area that is free of above ground obstructions and structures. Runway Protection Zones (RPZs), formerly known as clear zones, were originally established to define land areas below aircraft approach paths in order to prevent the creation of airport hazards or development of incompatible land use. As stated in the Iowa Airport Land Use Guidebook, 2008, the FAA adopted clear zones with dimensional standards to implement a recommendation from the 1952 President’s Airport Commission study that identified the establishment of clear areas beyond runway ends was deemed worthy of federal management. RPZs are designed with the intent to protect people and property on the ground. They are located at the end of each runway and should ideally be controlled by the airport. Control is preferably exercised by acquisition of sufficient property interest to achieve and maintain an area that is clear of all incompatible land uses, objects, and activities.



Table 1. Zone A - Dimensional Requirements

	Runway Ends	Approach Visibility Minimums <sup>1</sup>	Dimensions		
			Length L feet	Inner Width W <sub>1</sub> feet	Outer Width W <sub>2</sub> feet
<b>Existing Runway</b>	<b>Runway 16</b>	<b>Visual</b>	<b>1,000 ft.</b>	<b>250 ft.</b>	<b>450 ft.</b>
	<b>Runway 34</b>	<b>Visual</b>	<b>1,000 ft.</b>	<b>250 ft.</b>	<b>450 ft.</b>

1. The RPZ dimensional standards are for the runway end with the specified approach visibility minimums. .

Source: FAA AC 150/5300-13, current edition, Airport Design Standards

**Zone B – Approach Surface**

Zone B is a critical airport overlay zoning surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and expands uniformly. Table 2 below illustrates the various sizes of Zone B based upon the specific runway criteria. A portion of Zone B is overlain by Zone A because the approach surface and RPZ overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ.

Table 2. Airport Overlay Zones B through E Dimensional Standards

Item	Runway Dimensional Standards (Feet)	
	Runway 16	Runway 34
Primary surface width and Zone B inner width	250 ft.	250 ft.
Zone B end width	1,250 ft.	1,250 ft.
Zone B length	5,000 ft.	5,000 ft.
Zone C width	1,050 ft.	1,050 ft.
Zone D radius	5,000 ft.	5,000 ft.
Zone E width	4,000 ft.	4,000 ft.

**Zone C – Transitional Surface**

Zone C includes those areas that are parallel to the runway pavement extending 1,050 feet from the edge of the primary surface paralleling the runway and extended runway centerline until they reach the end of Zone A at a 90 degree angle. The specific dimensions for Zone C are based upon various options for the primary surface that is predicated upon the type of approach and critical aircraft. The transitional surface (Zone C) extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally per one-foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

**Zone D – Horizontal Surface**

Zone D is typically elliptical in shape, depending upon the runway types and configurations at individual airports. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc for all runway ends designated as utility or visual airports is 5,000 feet.



**Zone E – Conical Surface**

Zone E is the outermost zone of the airport overlay zoning areas and has the least number of land use restriction considerations. The zone begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface. According to the Iowa Airport Land Use Guidebook, the conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet. Height limitations for the surface range from 150 feet above the airport reference elevation at the inner edge to 350 feet at the outer edge.

## SECTION 11. LAND USE ZONE COMPATIBILITY

The need to plan for compatible land use near airports is not a new concept. Compatible land use was recognized as early as 1952 in a document entitled *The Airport and Its Neighbors - The Report of the President's Airport Commission*. As stated in the Iowa Airport Land Use Guidebook, the incidence of incompatible land uses and impact on airport operations and development have escalated. As decisions to allow incompatible land uses near airports threaten the nation's aviation system, implementation of compatible land use controls have become an industry priority. It is important for the Spirit Lake Municipal Airport to maintain an obstruction-free airport and associated airspace. This includes the area that encompasses the airport, runway protection zones, approach areas, and general vicinity of the airport. While some of these areas are owned by airports, the bulk of the land beyond airport boundaries is privately owned and needs to be managed by the local municipality and/or county in which the airport jurisdiction falls. FAA criteria, such as grant assurances and design guidelines, along with aviation accident statistics, provide the foundation and the justification for compatible land uses.

The previously stated definition, defined in the Iowa Airport Land Use Guidebook, appears vague since no

***DEFINITION OF "COMPATIBLE LAND USE" - Airport compatible land uses are defined as those developments that comply with generally accepted restrictions on location, height, and activity that provide for safe aircraft movement and airport operations. Additionally, it includes the preservation of public health, safety, and welfare for those persons located in the airport's environs.***

specific land use types are specified. However, the vagueness is intentional because nearly every type of land use can be both compatible and incompatible depending upon the particular aspects of the land use, including management of the land use, location of the land use relative to the airport. For example, land uses typically considered to be compatible with airport operations include commercial, industrial, and agricultural activities. With that said, each of these uses may also contain aspects considered incompatible such as:

- Commercial uses may have dense concentrations of people
- Industrial uses that can generate smoke/steam that creates visual obstructions
- Agricultural operations can act as wildlife attractants in certain circumstances

The City of Spirit Lake, City of Okoboji and the Spirit Lake Airport Commission must each and collaboratively assess the compatibility of the land uses in detail as related to the Spirit Lake Municipal Airport. Descriptions of land use issues include high concentrations of people, tall structures, visual obstructions, and wildlife and bird attractants.

Lastly, land use compatibility is critical to the Spirit Lake Municipal Airport because certain grant assurances are required as part of a project application from airports that are eligible to request federal funds. Upon acceptance of grant money, these assurances are incorporated into and become part of the grant agreement. The airport sponsor is obligated to comply with specific assurances, which include the maintenance of compatible land use within the vicinity of the airport. Specifically, Grant Assurance 21 included in the September 1999 amendment to 49 USC 47107, requires all airports that accept federal money to take

Land use compatibility is a requirement for eligibility to receive FAA grant money for airport improvements!

  
Iowa Airport Land Use Guidebook

appropriate action against incompatible land uses in the immediate vicinity of the airport. Such actions include adopting zoning laws and zoning changes that will increase airport land use compatibility. This grant assurance obligates an airport sponsor to protect the federal investment through the maintenance of a safe operating environment. The development of compatible land uses near airports is supported through cooperative comprehensive planning that includes FAA standards. Land use compatibility is a requirement for eligibility to receive FAA grant money for airport improvements. Adjacent land uses that are not compatible with airports may result in the loss of federal or state funding for airports. The following tables shall be utilized to evaluate land use compatibility for various land use classifications.

1. Uses identified as **COMPATIBLE** shall not require additional review; however, consideration should be given to the following areas of concerns: High concentrations of people, tall structures, visual obstructions, or wildlife and bird attractants.
2. Uses found to require **ADDITIONAL REVIEW** shall be evaluated for general compatibility individually or jointly by the Spirit Lake and/or Okoboji Zoning Administrators for potential conflicting land uses or potential negative affects that may need to be mitigated. If the areas of concern are addressed by the applicant, the Airport Zoning Administrator shall recommend issuance of the zoning permit. If no areas of potential conflicting uses or incompatible land uses are identified, or need to be mitigated, the Airport Zoning Administrator shall proceed to recommend issuance of the permit.
3. Uses found to be **NOT COMPATIBLE** shall be precluded from development within the specific zones. The applicant reserves the right to apply for a variance for a “Not Compatible” use to be built within the requested airport zone and in accordance with FAA requirements. Variances will be reviewed by the Airport Board of Adjustment.

<i>C = Compatible</i>		<i>AR = Additional Review Required</i>		<i>NC = Not Compatible</i>	
<b>Spirit Lake Airport Zone – Residential Land Uses</b>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Single Family Detached Dwelling	AR	AR	C	C	C
<b>Multi-Family Uses</b> <i>(i.e. apartments, condos, townhouse, etc.)</i>	NC	AR	C	C	C
<b>Group Living Uses</b> <i>(i.e. group or nursing homes, assisted living)</i>	NC	AR	C	C	C
Manufactured/Mobile Housing Parks	AR	AR	C	C	C
<b>Spirit Lake Airport Zone – Commercial Land Uses</b>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
<b>Eating and Drinking Establishments</b> <i>(i.e. restaurants, cafes, fast food restaurants, bars, nightclubs, taverns, etc.)</i>	NC	AR	C	C	C
<b>Quick Vehicle Servicing Uses</b> <i>(i.e. gas station, unattended card key service stations, car washes, etc.)</i>	NC	AR	C	C	C
<b>General Office Uses</b> <i>(i.e. business offices, financial businesses, government offices - 35 ft. or less in height)</i>	NC	AR	C	C	C
<b>Medical Office/Clinic Uses</b> <i>(i.e. medical/dental clinics, chiropractic, physical therapy - 35 ft. or less in height)</i>	NC	AR	C	C	C

<b>General Retail Sales</b> <i>(electronics, furniture, groceries, hardware, etc.)</i>	NC	AR	C	C	C
<b>Retail Hospitality</b> <i>(i.e. hotels/motels, event facilities, etc.)</i>	NC	AR	C	C	C
<b>Outdoor Storage and Display</b> <i>(i.e. storage yards, vehicles sales, landscape materials, nurseries, equipment sales, etc.)</i>	NC	AR	C	C	C
<b>Vehicle Repair Uses</b> <i>(i.e. vehicle repair, service, alignment or tires)</i>	NC	AR	C	C	C
<b>All Other Commercial Uses</b> <i>Any other commercial use not classified in one of the above listed categories</i>	NC	AR	C	C	C
<b>Spirit Lake Airport Zone – Industrial Land Uses</b>					
<b>Land Uses</b>	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>	<b>Zone D</b>	<b>Zone E</b>
<b>Light Manufacturing</b> <i>(i.e. research, HVAC, plumbing, janitorial, engineering, assembly, warehousing, etc.)</i>	NC	AR	C	C	C
<b>Heavy Manufacturing</b> <i>(i.e. concrete plants, packing, animal, ethanol or other facilities with excessive smoke/dust)</i>	NC	AR	AR	C	C
<b>Mining and Extraction Uses</b>	NC	AR	C	C	C
<b>Salvage Operations</b> <i>(i.e. collect, store, and dismantle damaged or discarded vehicles, machinery, etc.)</i>	NC	AR	C	C	C
<b>Waste-Related Uses</b> <i>(i.e. recycling, landfills, waste transfer stations, hazardous waste collection sites, etc.)</i>	NC	AR	AR	AR	AR
<b>Spirit Lake Airport Zone – Civic &amp; Public Land Uses</b>					
<b>Land Uses</b>	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>	<b>Zone D</b>	<b>Zone E</b>
<b>Basic Utility Uses</b> <i>(i.e. utility facilities, electrical substations, water and sewer lift stations, water towers)</i>	NC	AR	AR	C	C
<b>General Community Services</b> <i>(i.e. libraries, museums, police/fire stations)</i>	NC	AR	C	C	C
<b>Daycare Uses</b> <i>(i.e. childcare, preschools, after school care)</i>	NC	AR	C	C	C
<b>Educational Facilities</b> <i>(i.e. any public or private school)</i>	NC	AR	C	C	C
<b>Hospitals</b> <i>(i.e. hospitals, medical centers)</i>	NC	AR	C	C	C
<b>Religious Assembly or Civic Uses</b> <i>(i.e. churches, religious or civic clubs)</i>	NC	AR	C	C	C
<b>Spirit Lake Airport Zone – Infrastructure Land Uses</b>					
<b>Land Uses</b>	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>	<b>Zone D</b>	<b>Zone E</b>
<b>Communication Transmission Uses</b> <i>(i.e. wireless, emergency towers, antennae)</i>	NC	NC	AR	AR	AR
<b>Transportation and Parking Uses</b> <i>(i.e. highways, local roads, parking lots, etc.)</i>	C	C	C	C	C

<b>Utility Uses</b> <i>(i.e. solar power, wind generators, wind farms)</i>	NC	NC	AR	AR	AR
<b>Spirit Lake Airport Zone – Agriculture Land Uses</b>					
<b>Land Uses</b>	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>	<b>Zone D</b>	<b>Zone E</b>
<b>Agriculture Plant-related</b> <i>(i.e. crops, vegetable, fruit, and tree farms, etc.)</i>	AR	C	C	C	C
<b>Agriculture Animal-related</b> <i>(i.e. livestock production, dairies, horse farms)</i>	AR	C	C	C	C
<b>Agricultural Housing</b> <i>(i.e. residential dwellings used for ag purposes)</i>	NC	AR	C	C	C
<b>Agricultural Facilities/Buildings</b> <i>(i.e. fuel storage/pumping facility, grain elevator, livestock/seed/grain sales, etc.)</i>	NC	AR	AR	C	C
<b>Spirit Lake Airport Zone – Recreation Land Use</b>					
<b>Land Uses</b>	<b>Zone A</b>	<b>Zone B</b>	<b>Zone C</b>	<b>Zone D</b>	<b>Zone E</b>
<b>Outdoor Commercial Recreation</b> <i>(i.e. camping, swimming pool, drive-in theaters, amphitheaters, fairgrounds, race tracks, etc.)</i>	NC	AR	AR	C	C
<b>Indoor Commercial Recreation</b> <i>(i.e. health clubs, bowling alleys, skating rinks, billiard halls, arcades, indoor theaters)</i>	NC	AR	C	C	C
<b>Golf Recreation</b> <i>(i.e. driving ranges, golf courses, country clubs)</i>	AR	AR	C	C	C
<b>Parks</b> <i>(i.e. aquatic, neighborhood, school, community)</i>	AR	AR	C	C	C

Regarding the land use compatibility charts above and on previous pages, if a specific use of land, building or structure is proposed by an applicant and not identified on the land use compatibility charts, the Zoning Administrator from the applicable jurisdiction shall be responsible for determining the level of land use compatibility in each applicable zone. If the applicant disagrees with the decision of the zoning administrator, they may appeal the decision of the administrator and have the Airport Board of Adjustment make a determination on the proposed land use compatibility.

## SECTION 12. AIRPORT ZONING ORDINANCE ADMINISTRATION

As stated in Section 329.13, Iowa Code, all airport zoning regulations adopted under this ordinance shall provide for the administration and enforcement of such regulations by an administrative agency. For purposes of the Spirit Lake Airport Zoning Ordinance, the administration will be enforced by the City of Okoboji Zoning Administrator with direct consultation and cooperation from the City of Spirit Lake Zoning Administrator and the Dickinson County Zoning Administrator. However, in no case, shall such administrative agency be or include any member of the airport Board of Adjustment. The duties of any administrative agency designated pursuant to the Iowa Code or this ordinance shall not include any of the powers herein delegated to the Board of Adjustment. The City of Okoboji Zoning Administrator will be recognized as the Airport Zoning Administrator since the operation of the Spirit Lake Municipal Airport lies within the jurisdiction of the City of Okoboji. With that stated, the City of Spirit Lake Zoning Administrator will have a vested interest in coordinating administration and compliance of the airport zoning review duties with the Airport Zoning Administrator since the Spirit Lake Municipal Airport is

owned and operated under the supervision of the City of Spirit Lake. If needed, the Dickinson County Zoning Administrator and city officials from adjoining affected communities may be called upon from time to time to consult and/or confer with the Airport Zoning Administrator about the airport zoning ordinance regulations.

### **SECTION 13. AIRPORT ZONING PERMITS**

Buildings or other structures located within the Spirit Lake Municipal Airport land use and height overlay zoning area, as defined herein, shall be reviewed in accordance with the allowable height and land use classifications accordingly. All proposed land uses, exclusive of communication uses (e.g. specifically cell towers, antennas, etc.), utility uses (e.g. specifically wind generators, wind farms, etc.) and waste related uses (e.g. specifically landfills, dump sites, etc.), shall not be subject to any further review of the airport zoning ordinance if such proposed building or structure is located within airport overlay Zones D and E and such building or structure meets the height requirements of the Spirit Lake or Okoboji Zoning Ordinances or the zoning ordinance for the government jurisdiction in which it is located.

Furthermore, those proposed buildings or structures to be located within airport overlay zones A, B, and C of the Spirit Lake Municipal Airport land use and height overlay zoning area, as defined herein, such proposed buildings or structures shall automatically be reviewed by the Airport Zoning Administrator in accordance with both height and land use conformance. Airport zoning permits may be reviewed and granted in conjunction with or supplemental to the local jurisdiction's zoning permit or any other zoning permit of the county or other affected community.

The Airport Zoning Administrator shall evaluate the proposal based upon information provided by the applicant. The Airport Zoning Administrator shall approve the permit if after evaluation, the proposed project is found to be adequately compatible with height and land use compatibility. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator shall deny the permit. Should the permit be denied, the applicant shall have the right to request an appeal as prescribed in this ordinance. Any airport zoning permit shall be null and void if the purpose for which the permit is issued has not commenced within one (1) year from date of issuance. Should the activity not be commenced within that time, a new zoning permit shall be required.

### **SECTION 14. HAZARDOUS MARKINGS AND LIGHTING**

This section provides for safe aircraft operations, as well as the health, safety, and welfare of individuals on the ground within the vicinity of the airport by identifying lighting and marking requirements. Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any structure, object, natural vegetation, or terrain is hereby required to install, operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazardous markers and lights shall be installed, operated, and maintained at the expense of the owner of such building, structure or object requiring such lighting or marking requirements within the findings of an FAA 7460-1 airspace analysis.

### **SECTION 15. HEIGHT LIMITATIONS**

No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or be maintained within any airport zoning district established by this ordinance to a height in excess of the applicable height limitations set forth in this ordinance and the airport zoning map. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the "Official Spirit Lake Municipal Airport Land Use & Height Overlay Map" within the airport zoning district encompassed by this ordinance. The Spirit Lake Municipal Airport Land Use & Height Overlay Map is located in the

Spirit Lake and Okoboji city offices and the Dickinson County Zoning Office. An FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate potential height impacts. However, it shall not be the sole source of review. Furthermore, if the height limitations of this airport zoning ordinance and accompanying Airport Land Use & Height Overlay Map are in conflict with the underlying height limitations imposed within the City of Okoboji, Dickinson County or any of the adjacent cities zoning ordinances, the more restrictive height limitation shall apply.

## **SECTION 16. AIRPORT BOARD OF ADJUSTMENT**

The Airport Board of Adjustment shall consist of one (1) member each from the City of Spirit Lake, City of Okoboji and Dickinson County, selected by the governing bodies thereof; and two (2) additional members to be selected by the Spirit Lake Airport Commission. The five (5) appointed members will select a chairperson amongst themselves. Board of Adjustment members may be removed for cause by the appointing authorities upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected. The terms of the board members shall be for five (5) years, except when the board is first created, one (1) of the members appointed by each participating governmental jurisdiction shall be appointed for a term of two years and one (1) for a term of four years. Any person, property owner, or taxpayer impacted by any decision of this ordinance, may appeal to the Board of Adjustment. According to Section 329.12, Code of Iowa, the governing body of any municipality seeking to exercise powers under Chapter 329, shall by ordinance provide for the appointment of a Board of Adjustment, as provided in section 414.7 for a city, or as provided in section 335.10 for a county. The Board of Adjustment has the same powers and duties, and its procedure and appeals are subject to the same provisions as established in sections 414.9 to 414.19 for a city, or sections 335.12 to 335.21 for a county. The concurring vote of a majority of the Board shall be necessary to reverse any order, decision or determination of any zoning official or to decide in favor of the applicant on any matter upon which it is required to pass under any regulations adopted pursuant to this ordinance or to effect any variance therefrom.

## **SECTION 17. VARIANCES**

In accordance with Section 239.11, Code of Iowa, any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use the person's property in violation of airport zoning regulations adopted under this ordinance, may apply to the Board of Adjustment for a variance from such zoning regulations. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this ordinance; provided, however, that any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this ordinance. No application for variance to the requirements of this ordinance may be considered by the Board of Adjustment unless an application has been submitted to the Airport Zoning Administrator for an opinion as to the aeronautical effects of the variance.

## **SECTION 18. JUDICIAL REVIEW**

This section defines the method for the judicial review process. Any person or persons, or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a Court of Record in the manner provided by the laws of the State of Iowa and particularly by Section 414.15 of Chapter 414, Code of Iowa.

## **SECTION 19. PENALTIES AND FINES**

Any violation of this ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a municipal infraction. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists enforcement of this ordinance, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction and punishable by civil penalty as provided herein (*Code of Iowa, Sec. 331.307[3]*). A municipal infraction for a zoning violation is punishable under the following civil penalties (*Code of Iowa, Sec. 331.307[1]*). First offense is not less than \$100 and not to exceed \$750.00 plus court costs, and Second and repeat offenses are not less than \$100 and not to exceed \$1,000.00 plus court costs. Each day a violation continues shall constitute a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

## **SECTION 20. CONFLICTING REGULATIONS**

In accordance with Section 329.8, Code of Iowa, where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

## **SECTION 21. SEVERABILITY**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

## **SECTION 22. EFFECTIVE DATE**

This ordinance shall be in effect from and after its adoption by the governing body and publication and posting as required by law, as provided for in Chapter 380.6 and 380.7, Iowa Code. (*Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3*)

**(Ord. 151, Aug. 2015 Supp. – Established Chapter 169, Airport Zoning Ordinance)**

## ***Exhibit A***

### ***Airport Overlay Zoning Boundary Map***

#### ***With Existing City Zoning Districts***

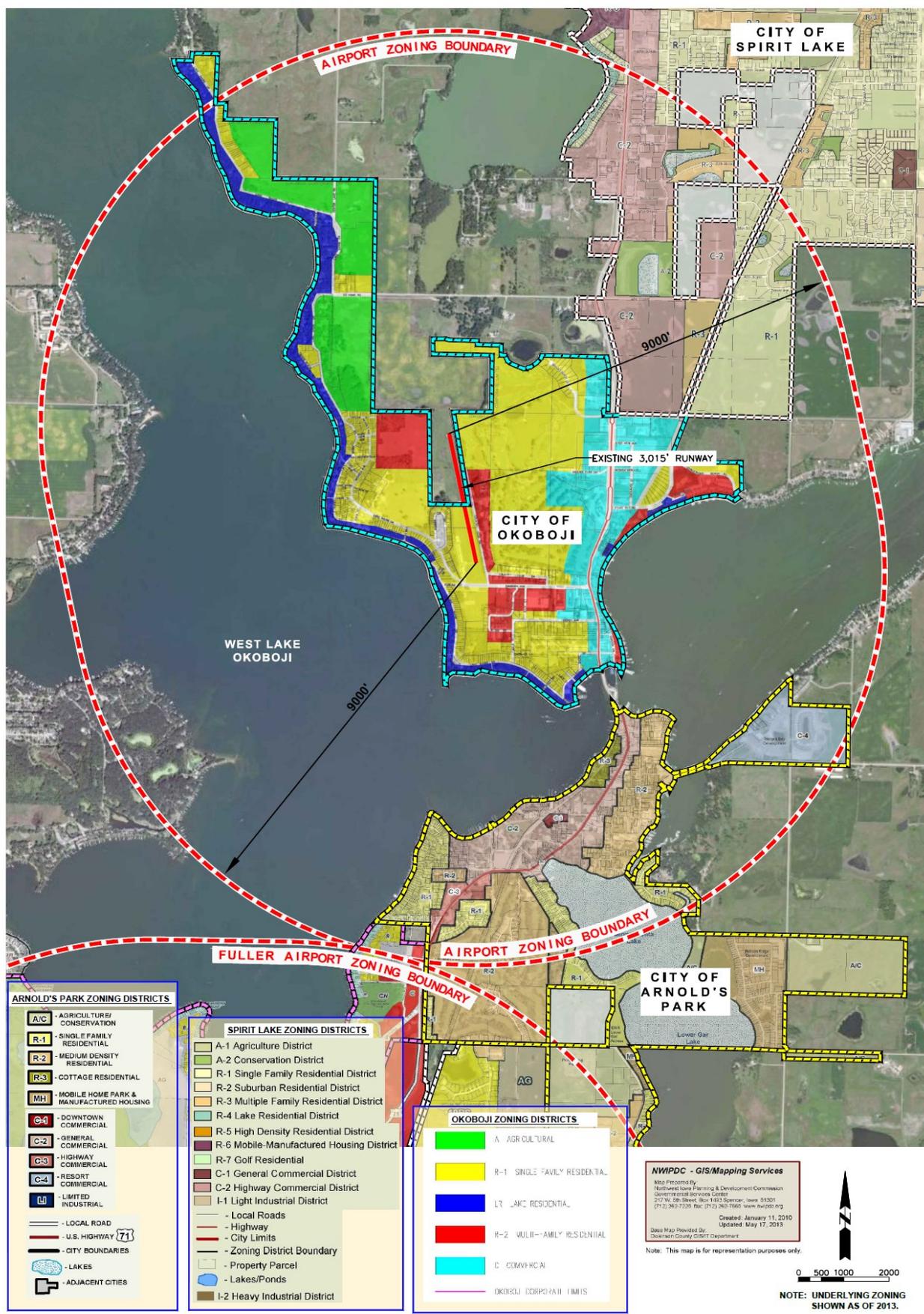
See attached map referenced hereto

## ***Exhibit B***

### ***Airport Land Use & Height Overlay Zoning Map***

This exhibit provides the official Spirit Lake Municipal Airport Land Use & Height Overlay Zoning Map to be kept on file with the appropriate governmental entities. The map must be amended when changes occur within the jurisdictional boundaries of the map. The map must be prepared and adopted concurrently with the ordinance.

See attached maps referenced hereto



**ARNOLD'S PARK ZONING DISTRICTS**

- A/C** - AGRICULTURE/ CONSERVATION
- R-1** - SINGLE FAMILY RESIDENTIAL
- R-2** - MEDIUM DENSITY RESIDENTIAL
- R-3** - COTTAGE RESIDENTIAL
- MH** - MOBILE HOME PARK & MANUFACTURED HOUSING
- C-2** - DOWNTOWN COMMERCIAL
- C-3** - GENERAL COMMERCIAL
- C-4** - HIGHWAY COMMERCIAL
- C-4** - RESORT COMMERCIAL
- I-1** - LIMITED INDUSTRIAL

- LOCAL ROAD  
 - U.S. HIGHWAY  
 - CITY BOUNDARIES  
 - LAKES  
 - ADJACENT CITIES

**SPIRIT LAKE ZONING DISTRICTS**

- A-1** Agriculture District
- A-2** Conservation District
- R-1** Single Family Residential District
- R-2** Suburban Residential District
- R-3** Multiple Family Residential District
- R-4** Lake Residential District
- R-5** High Density Residential District
- R-6** Mobile-Manufactured Housing District
- R-7** Golf Residential
- C-1** General Commercial District
- C-2** Highway Commercial District
- I-1** Light Industrial District
- I-2** Heavy Industrial District

- Local Roads  
 - Highway  
 - City Limits  
 - Zoning District Boundary  
 - Property Parcel  
 - Lakes/Ponds

**OKOBOJI ZONING DISTRICTS**

- A** - AGRICULTURAL
- R-1** - SINGLE FAMILY RESIDENTIAL
- LR** - LAKE RESIDENTIAL
- R-2** - MULTI-FAMILY RESIDENTIAL
- C** - COMMERCIAL
- I** - INDUSTRIAL

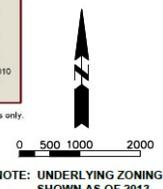
OKOBOJI CORPORATE LIMITS

**NWPDC - GIS/Mapping Services**  
 Map Prepared By:  
 Northwest Iowa Planning & Development Commission  
 Geographical Services Center  
 217 W. 28th Street, Box 1623 Spencer, Iowa 51301  
 (712) 363-7226 Fax: (712) 263-7566 Iowa.nwpdc.org

Created: January 11, 2010  
 Updated: May 17, 2013

Data Map Provided By:  
 Dickinson County GIS/IT Department

Note: This map is for representation purposes only.



NOTE: UNDERLYING ZONING SHOWN AS OF 2013.

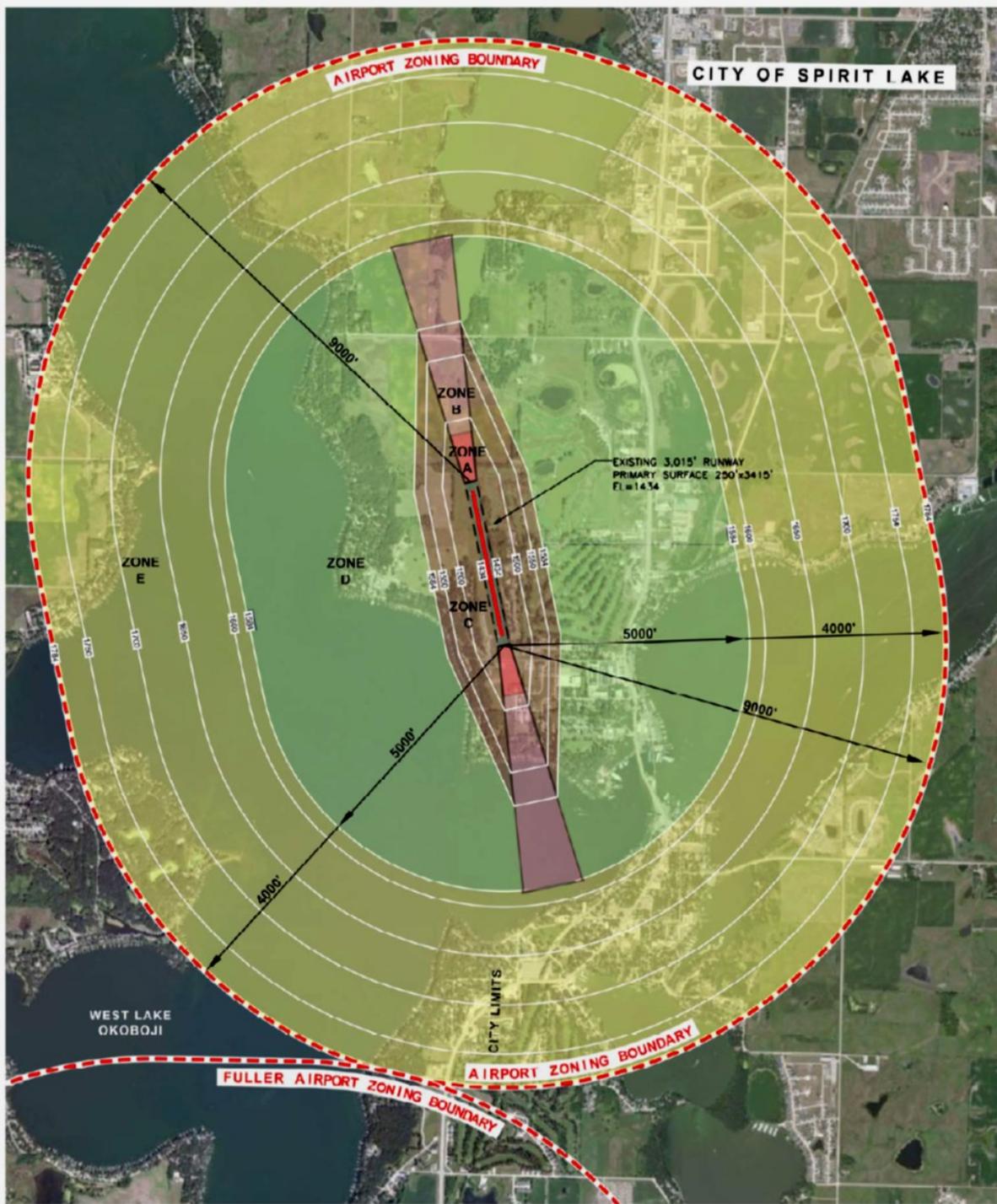


Project Manager: Brian Meyer  
 Designer: CAG  
 Project Number: 663040  
 Phone: (605) 339-4157

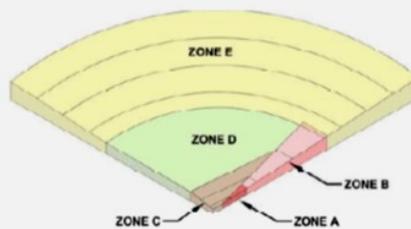
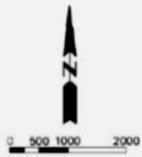
Airport Zoning Boundary & Underlying Zoning

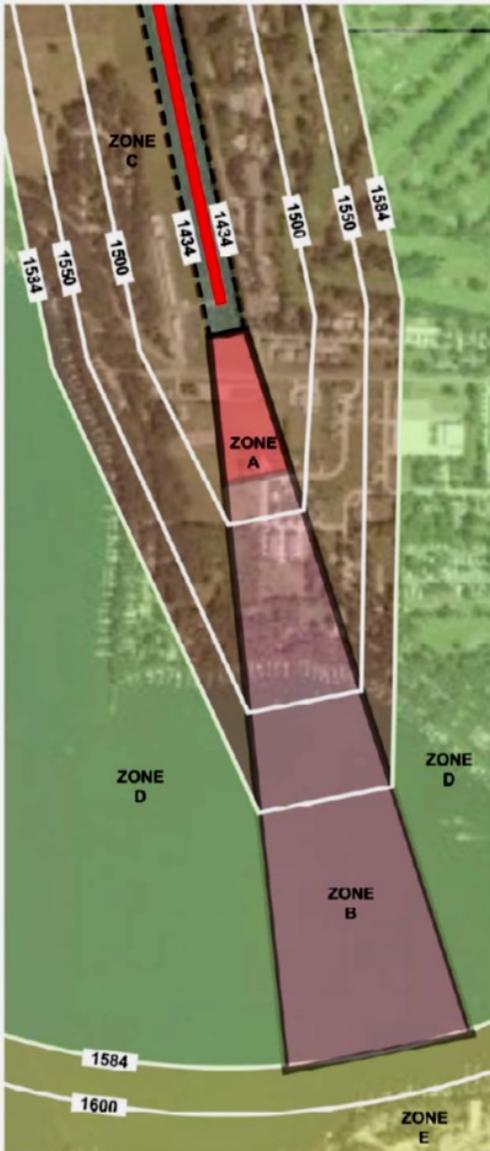
REVISION	DATE	DESCRIPTION

**SPIRIT LAKE MUNICIPAL AIRPORT  
 AIRPORT LAND USE & HEIGHT ZONING  
 SPIRIT LAKE, IOWA**

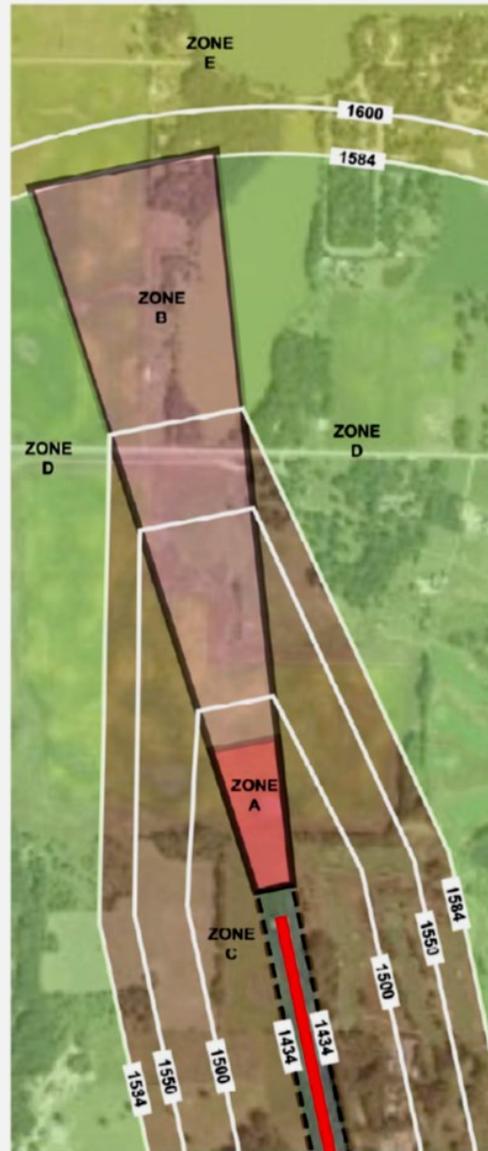


- ZONE A - RUNWAY PROTECTION ZONE  
500'x1000'x700'
- ZONE B - APPROACH SURFACE 20:1 SLOPE  
500'x3000'x2000' (FROM PRIMARY SURFACE)
- ZONE C - TRANSITIONAL SURFACE 7:1 SLOPE
- ZONE D - HORIZONTAL SURFACE
- ZONE E - CONICAL SURFACE - 20:1 SLOPE



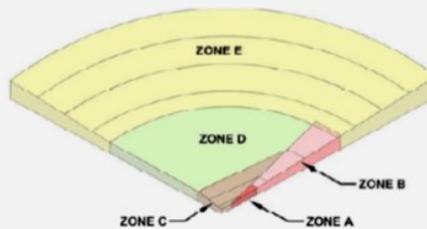
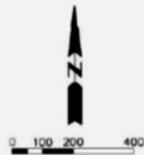


**SOUTH END**



**NORTH END**

- ZONE A - RUNWAY PROTECTION ZONE  
500'x1000'x700'
- ZONE B - APPROACH SURFACE 20:1 SLOPE  
500'x5000'x2000' (FROM PRIMARY SURFACE)
- ZONE C - TRANSITIONAL SURFACE 7:1 SLOPE
- ZONE D - HORIZONTAL SURFACE
- ZONE E - CONICAL SURFACE - 20:1 SLOPE



Sheet 3 of 3		Project Manager: Brian Meyer Designer: CAG Project Number: 663040 Phone: (802) 339-4157
	Airport Land Use & Height Zoning Map	
	SPIRIT LAKE MUNICIPAL AIRPORT AIRPORT LAND USE & HEIGHT ZONING SPIRIT LAKE, IOWA	
	DATE: 11/20/13	

