CODE OF ORDINANCES

OF THE

CITY OF

WEST BRANCH, IOWA

1999

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CODE OF ORDINANCES
OF THE
CITY OF WEST BRANCH, IOWA, 1999

Adopted April 5, 1999, by Ordinance No. 508

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Apr-99	Ch. 165	506	2-16-99	Rezoning from R-3 to RB-1
	17.06	507	2-16-99	Council Compensation
		508	4-5-99	Adopt 1999 Code of Ordinances
Sep-99	63.04(6)(A)	509	5-3-99	Special 45 mph Speed Zone
	69.08(56)	510	7-6-99	No Parking Zones
		511		Vetoed
	165.43(4)	512	7-19-99	Permitted Signs in A-1 District
	Ch. 137	513	7-19-99	Vacation of Alley
	1.10	514	8-2-99	Standard Penalty
	69.08(52)	515	8-2-99	No Parking Zones
Mar-00	Ch. 165	516	10-4-99	Rezoning from R-1 to R-2
	63.04(2)	517	10-18-99	20 mph Speed Zone
	35.15	518	1-3-00	Charge for Services
	65.02(41 & 42)	519	12-20-99	Stops Required
	Ch. 27	521	1-18-00	West Branch Economic Development Commission
	Ch. 137	522	2-7-00	Vacation of Alley
	170.11(4)	523	3-6-00	Requirements of Final Plat
Sep-00	105.05	520	3-20-00	Open Burning
	105.05; 105.05(5)	524	5-15-00	Open Burning
	Ch. 137	525	6-5-00	Alley Vacation
	107.08	526	6-5-00	Recycling Rates and Charges
	Ch. 94	527	6-19-00	Water Conservation
	165.43(5)	528	9-5-00	Zoning - Signs
	Ch. 165	529	9-5-00	Rezoning from R-1 to R-2
	90.12; 90.13	530	9-18-00	Water Service Pipe; Failure to Maintain Water Service Pipe
	1.10	531	9-18-00	Standard Penalty
	92.08	532	9-18-00	Lien Notice
Aug-01	Ch. 111	533	1-2-01	Electric Franchise
	Ch. 165	534	3-5-01	Rezoning from R-1 to RB-1, R-2, and R-3
	92.04	535	5-7-01	Billing for Water
	92.02	536	5-7-01	Water Rates
		537		FAILED
	107.05; 107.08	538	6-18-01	Recyclables and Rates
		539		FAILED

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Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Jan-02	30.06	540	9-4-01	Peace Officers Appointed
	6.07	541	8-20-01	Election Precincts
	Ch. 113	542	10-1-01	Cable TV Franchise Extension
	170.16(7)	543	10-15-01	Maintenance Bond - Subdivision
	Ch. 137	544	11-5-01	Vacation & Conveyance of Alleys
	6.07	545	12-3-01	Election Precincts
	Ch. 137	546	1-7-02	Alley Vacation
Jun-02		547		FAILED
	Ch. 113	548	1-22-02	Extended Cable TV Franchise
	Ch. 31	549	1-22-02	Reserve Police Force
	69.08(31 & 37)	550	2-19-02	No Parking Zones
		551		FAILED
	Ch. 113	552	5-20-02	Cable Television Franchise
	Ch. 117	553	5-20-02	Cable Television Regulatory and Franchise Enabling Ordinance
Mar-03	92.04(5)	554	8-19-02	Billing Disputes
	Ch. 165	555	8-19-02	Rezoning from A-1 to HCI
	Ch. 9	556	8-4-02	2002 Addition to Urban Renewal
	Ch. 165	557	11-18-02	Rezoning from R-1 to RB-1
	Ch. 55	558	12-16-02	Animal Protection and Control
	Ch. 28	559	12-16-02	Animal Control Commission
	65.02(43)	560	2-18-03	Stop Required
Feb-04	15.03(9)	561	7-7-03	Mayor's Appointments
	92.04(1)	562	9-2-03	Water Meters Read
	155.02	563	10-6-03	Building Permit Fees
		564		FAILED
	21.03; 23.05(9); 24.04(1); 25.03; 25.04(4 & 5); 26.13; 27.04; 27.07; 28.03; 28.06(9)	565	1-5-04	City Administrator, Planning and Zoning Commission, Park and Recreation Commission, Cable Television Commission; Preservation Commission; Economic Development Commission; Animal Control Commission Terms, Duties and Annual Reports
	Ch. 139	566	1-20-04	Commercial Drive Renamed Tidewater Drive
	27.03(8)	567	1-20-04	Economic Development Commission Membership
Sep-04	94.07	568	3-15-04	Base Allocation
	15.03(9 and 10)	569	5-3-04	Mayor's Appointments
		570		FAILED
	136.05	571	8-16-04	Sidewalk Repairs

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Supp. No.	**Repeals, Amends or Adds**	**Ord. No.**	**Date**	**Subject**
Sep-04 (cont.)	63.04(3)(C); 63.04(4)(B)	572	8-16-04	Special Speed Zones
	165.04(46)	573	8-16-04	Definition of Driveway
	90.13	574	9-7-04	Failure to Maintain
		575		FAILED
	136.05	576	9-7-04	Sidewalk Repairs
Mar-05	40.06	577	10-4-04	Public Exposure
	165.49(1)	578	10-18-04	Adult Entertainment Businesses
	Ch. 113A	579	3-7-05	Cable Television Franchise
	165.49(1)	580	2-7-05	Adult Entertainment Businesses
	Ch. 165	581	2-22-05	Rezoning from R-2 & RB-1 to R-3
	117.23(7)	582	2-22-05	Cable Television Services
Jul-05	55.16(2)(C)	583	3-21-05	Classifications of Animals
	69.16	584	3-21-05	Snow Removal
	155.03	585	5-2-05	Key Lock Box System
	65.02(44-46)	586	6-20-05	Stop Required
	69.08(57-59)	587	6-20-05	No Parking Zones
	165.49(1)(B)(2)	588	6-20-05	Adult Entertainment Businesses
Sep-05	165.43(1)(C)	589	7-18-05	R District Signs
		590		FAILED
	24.01, 24.02, 25.03, 26.04	591	8-1-05	Commission Membership
	Ch. 94	592	9-19-05	Water Conservation
		593		FAILED
	69.03(6)	594	9-6-05	Angle Parking
	69.13(1)	595	9-6-05	Loading Zone Parking
	69.03(7)	596	9-19-05	Angle Parking
Dec-05	69.03(3)	597	10-17-05	Angle Parking
	27.03(1)	598	9-19-05	Economic Development Commission Membership
	99.02	599	10-17-05	Sewer Rate
	92.02	600	10-17-05	Water Rates
	69.03(8)	601	11-9-05	Angle Parking
	69.03(9)	602	11-9-05	Angle Parking
	15.03(2)	603	11-21-05	Mayor's Appointments
	55.22(5)(B)	604	12-5-05	Animal License Tag
Mar-06	69.08(57)	605	12-19-05	No Parking Zones
		606		FAILED
	70.03	607	2-6-06	Parking Violations: Alternate
	65.02(47-52)	608	2-6-06	Stop Required
	69.08(60)	609	3-6-06	No Parking Zones
Nov-06	28.02	610	3-20-06	Animal Commission Membership
	155.02	611	4-3-06	Building Permit Fees
	17.04(1)	612	4-3-06	Regular Council Meetings
		613		FAILED

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Nov-06 (cont.)	63.04(4D) and (6A)	614	4-17-06	Special Speed Zones
	Ch. 137	615	8-7-06	Alley Vacation
	31.05	616	10-2-06	Sidearms—Reserve Officers
	92.04(6)	617	10-2-06	Insufficient Funds Charge
	69.17	618	10-2-06	Motorcycle Parking
		619		FAILED
	1.11	620	10-16-06	Insufficient Funds Charge
	1.12	621	10-16-06	Severability
Oct-07	92.04(6)	622	11-6-06	Insufficient Funds Charge
	1.11	623	11-6-06	Insufficient Funds Charge
	69.08(61) through (63)	624	12-4-06	No Parking Zones
	Ch. 137	625	1-2-07	Vacating Alleys
	63.04(6)(A)	626	12-4-06	45 MPH Speed Zone
	Ch. 8	627	1-2-07	Industrial Property Tax Exemption
	Ch. 137	628	2-5-07	Vacating Alleys
	Ch. 165	629	3-19-07	Zoning Map
	Ch. 27	630	4-16-07	Economic Development Commission
	Ch. 137	631	6-18-07	Vacating Alleys
		632		FAILED
	65.02(53) and (54)	633	7-16-07	Stops Required
	18.01	634	7-2-07	City Clerk
	165.49(1)	635	7-2-07	Permitted Uses in HCI District
	17.05	636	7-2-07	Council Appointments
	69.08(64)	637	7-16-07	No Parking Zone
	63.04(4)(E)	638	7-16-07	35 MPH Speed Zone
Aug-08		639		FAILED
	92.04(6)	640	10-1-07	Insufficient Funds
	1.11	641	10-1-07	Insufficient Funds
	69.08(2)(B)	642	11-5-07	No Parking Zones
	37.02	643	11-5-07	False Alarms
	99.02	644	11-5-07	Sewer Service Charges
	92.10	645	12-17-07	Water Deposits for Rental Property
	Ch. 165	646	12-17-07	Zoning Map
	55.17(4)(B); 55.22(2),(3)(A), (6)	647	2-4-08	Animal Protection and Control
		648		FAILED
		649		FAILED
	17.04(1)	650	6-2-08	Regular Council Meetings
	45.02(2)	651	6-16-08	Public Consumption or Intoxication
	107.08	652	8-4-08	Solid Waste Rates and Charges

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May-09	92.04(5)	653	9-15-08	Billing Corrections
	45.02(2)	654	12-15-08	Public Consumption or Intoxication
	31.01(1)	655	3-2-09	Police Reserves Membership
	92.04(5)	656	3-2-09	Billing Corrections
		657		FAILED
	Ch. 8	658	5-4-09	Industrial Property Tax Exemptions
Mar-11	165.15; 165.16	659	10-5-09	Zoning: Enforcement and Permits
		660		Vetoed
		661		FAILED
	17.06	662	10-19-09	Council Compensation
	170.16(6)(D)	663	1-4-10	Subdivision: Sewers
		664		Not Voted On
	99.02	665	3-15-10	Sewer Rates
	55.16(3)(B) and (4)(F)	666	4-5-10	Animal Protection and Control
	165.32(1)(Q); 165.36(1)(P)	667	4-19-10	Zoning: Permitted Uses
	105.03	668	5-3-10	Sanitary Disposal Required
		669		FAILED
	Ch. 165	670	5-3-10	Rezoning from R-2 to B-2
		671		FAILED
	30.11	673	2-21-11	Residency Requirement for Police Department
	Ch. 165	674	2-21-11	Rezoning from R-2 to B-2
Feb-13	31.01(1)	672	2-21-12	Police Reserves
	90.06	675	5-2-11	Water Permit Fee
	96.02	676	5-2-11	Sewer Connection Charge
		677		FAILED
		678		FAILED
		679		FAILED
	Ch. 100	680	7-5-11	Wastewater Lift Station Connection Fee District
	55.16	681	8-1-11	Animal Protection and Control
	Ch. 137	682	7-18-11	Alley Vacation
	6.07	683	8-15-11	Election Precincts
	69.08(65)	684	10-3-11	No Parking Zones
	92.02	685	11-21-11	Water Rates
	90.06	686	11-21-11	Water Permit Fee
	96.02	687	11-21-11	Sewer Connection Charge
		688		No Action Taken
	Ch. 173	689	3-5-12	Site Plan Requirements
	Ch. 137	690	3-5-12	Alley Vacation
		691		FAILED

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Feb-13 (cont.)	170.16(7)	692	4-2-12	Subdivision Maintenance Bonds
	173.14	693	4-16-12	Site Plans—Maintenance Bonds
	7.07(3)	694	4-16-12	Check Signatures
	Ch. 110	695	6-25-12	Natural Gas Franchise
	7.09	696	6-4-12	Schedule of Fees
	136.05	697	6-25-12	Performance by City
	136.02; 136.07	698	8-20-12	Sidewalk Regulations
	65.02(55)	699	8-20-12	Stop Required
	68.01(5-6)	700	9-17-12	One-Way Streets
		701		FAILED
	69.09(6)	702	10-1-12	Overnight Parking
	91.06; 91.07	703	10-15-12	Water Meters
	63.04(1)(B); 63.04(7)	704	10-15-12	Special Speed Zones

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CHAPTER 1

CODE OF ORDINANCES

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1.04 Indemnity
1.05 Personal Injuries
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1.07 Amendments
1.08 Catchlines and Notes
1.09 Altering Code
1.10 Standard Penalty
1.11 Insufficient Funds Charge
1.12 Severability

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of West Branch, Iowa, 1999.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 West Branch, Iowa.

3. "Clerk" means the city clerk of West Branch, 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 West Branch, Iowa, 1999.

6. "Council" means the city council of West Branch, Iowa.

7. "County" means Cedar County, Iowa.

8. "Measure" means an ordinance, amendment, resolution or motion.

9. "Month" means a calendar month.

10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."

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 West Branch, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

14. "Preceding" and "following" mean next before and next after, respectively.

15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.

16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.

17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.

18. "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.

19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

20. "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.

21. "State" means the State of Iowa.

22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

23. "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.

24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.

25. "Year" means a calendar year.

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 the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.

2. May. The word "may" confers a power.

3. Must. The word "must" states a requirement.

4. Shall. The word "shall" imposes a duty.

5. Gender. The masculine gender includes the feminine and neuter genders.

6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.

7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

1.07 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)

1.08 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.

1.09 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)

1.10 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall be guilty of a simple misdemeanor and, upon conviction, be subject to a fine of not more than five hundred dollars ($500.00) or imprisonment not to exceed thirty (30) days. ***(Ord. 531 – Sep. 00 Supp.)***

(Code of Iowa, Sec. 364.3[2])

1.11 INSUFFICIENT FUNDS CHARGE. A service charge in the amount of $30.00 shall be assessed to any customer whose payment is not honored by the customer's financial institution for any reason when presented. The service charge shall be in addition to the late payment penalty. If two or more payments are dishonored within a twelve-month period, the City may require future payments in cash, cashiers check or money order. Such cash, cashiers check or money order payments shall be maintained until account has not been delinquent for twelve (12) consecutive months. ***(Ord. 641 – Aug. 08 Supp.)***

1.12 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.

(Ord. 621 – Nov. 06 Supp.)

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties
2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of West Branch, 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 four (4) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

EDITOR'S NOTE

Ordinance No. 267 adopting a charter for the City was passed and approved by the Council on June 16, 1975.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

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

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

4.02 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.

4.03 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 $500.00

B. Each Repeat Offense - Not to exceed $750.00

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

2. Special Civil Penalties.

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

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

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

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

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

4.04 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 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

4.05 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])

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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

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

(Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in West Branch 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 this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

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

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

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

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

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

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind

described in subsection 8 of this section, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases 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])

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not

eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected
6.07 Election Precincts

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Each eligible elector who signs a nominating petition shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition shall not sign it. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the Secretary of State and shall include information required by the Code of Iowa.

(Code of Iowa, Sec. 45.3)

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])

6.07 ELECTION PRECINCTS. ***(Repealed by Ordinance No. 683 – Feb. 13 Supp.***)

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports
7.09 Schedule of Fees

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 City Treasurer/Finance Officer 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 Clerk and at the City library.

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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. 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 two of the authorized signatories following Council approval, except as provided by subsection 5 hereof. ***(Ord. 694 – Feb. 13 Supp.)***

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)

7.09 SCHEDULE OF FEES. The Finance Officer shall maintain and file the West Branch Schedule of Fees, which shall contain a list of fees approved by resolution of the City Council for various services provided by the City.

(Ord. 696 – Feb. 13 Supp.)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

(Repealed by Ordinance No. 658, May 4, 2009)

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE

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.

ORDINANCE NO.	ADOPTED	NAME OF AREA
421	December 18, 1989	Urban Renewal Project Area I
465	August 15, 1994	1994 Addition to the West Branch Urban Renewal Area
556	August 4, 2002	2002 Addition to the West Branch Urban Renewal Area

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments
15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (4) 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, except for supervisory duties delegated to the City Administrator, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief, with Council approval ***(Ord. 603 – Dec. 05 Supp.)***
3. City Attorney, with Council approval
4. Library Board of Trustees, with Council approval
5. Cable Television Commission, with Council approval
6. Health Officer
7. Park and Recreation Commission, with Council approval
8. West Branch Preservation Commission, with Council approval
9. West Branch Animal Control Commission, with Council approval
10. West Branch Economic Development Commission, with Council approval.

(#9 and 10 - Ord. 569 – Sep. 04 Supp.)

15.04 COMPENSATION. The salary of the Mayor is twenty-four hundred dollars ($2,400.00) per annum.

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

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

(Code of Iowa, Sec. 372.4)

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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])

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CHAPTER 17

COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The regular meetings of the Council are on the first and third Mondays of each month in the Council Chambers at City Hall. The time of said meetings shall be 6:30 p.m. when held during the months of November through March and shall be at 7:00 p.m. when held during the months of April through October. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by the Council. ***(Ord. 650 – Aug. 08 Supp.)***

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of

the Council. A record of the service of notice shall be maintained by the Clerk.

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

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

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

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

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

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

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

1. City Administrator
2. City Clerk
3. Deputy City Clerk
4. City Treasurer/Finance Officer
5. Planning and Zoning Commission
6. Zoning Board of Adjustment

(Ord. 636 – Oct. 07 Supp.)

17.06 COMPENSATION. The salary of each Council member is forty dollars ($40.00) for each meeting of the Council attended. If a Council member resigns or is removed before December 31st of any year of their term, the Council member shall forfeit all compensation earned for that year of service.

(Ord. 662 – Mar. 11 Supp.)

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council. The City Clerk has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City. The Council shall specify by resolution the compensation to be paid for such services. ***(Ord. 634 – Oct. 07 Supp.)***

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

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

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

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

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

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

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

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

the date of the election, hearing or other action, unless otherwise provided by law.

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. In the event of a change in the method of nomination process used by the City, certify to the Commissioner of Elections the type of nomination process to be used by the City no later than seventy-seven (77) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

CHAPTER 19

CITY TREASURER/FINANCE OFFICER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer/Finance Officer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer/Finance Officer to serve at the discretion of the Council.

19.02 COMPENSATION. The Treasurer/Finance Officer is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF TREASURER/FINANCE OFFICER. The duties of the Treasurer/Finance Officer are as follows:

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

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

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

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

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

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

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

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

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

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

10. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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 Representation of City Employees

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

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

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

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

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

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

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

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

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

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

(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 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City 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 City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

CITY ADMINISTRATOR

21.01 Office Created
21.02 Compensation
21.03 Duties Generally
21.04 Residency Requirement
21.05 Bond

21.01 OFFICE CREATED. There is hereby created the office of City Administrator. The office shall be filled by a resolution adopted by majority vote of the Council. The person appointed shall hold office at the discretion of the Council and shall be subject to removal by a resolution adopted by a majority vote of the Council. The qualifications for the position shall include competency through education or experience to perform the duties placed upon the Administrator.

21.02 COMPENSATION. The compensation for the City Administrator, including expenses, shall be in an amount and in the form as may from time to time be fixed by Council by resolution. The Council is hereby authorized, in its discretion, to enter into employment contracts with the City Administrator as may be necessary for his or her employment.

21.03 DUTIES GENERALLY. The general duties of the office are to coordinate and supervise the activities, policies and procedures of the City. The Administrator shall be directly responsible to the Council for the administration of municipal affairs as directed by the Council. A specific job description for the position of City Administrator shall be adopted by separate resolution of the Council and may be changed from time to time as may be warranted.

(Ord. 565 – Feb.. 04 Supp.)

21.04 RESIDENCY REQUIREMENT. The City Administrator shall become a resident of the City of West Branch, and continued residency in the City is a requirement for continued employment with the City.

21.05 BOND. The City Administrator shall be bonded for the performance of all duties in favor of the City, in an amount to be determined by the Council by resolution, but in no event shall the bond be less than ten thousand dollars ($10,000.00). The City shall pay the cost of the bond.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library
22.02 Library Trustees
22.03 Qualifications of Trustees
22.04 Organization of the Board
22.05 Powers and Duties
22.06 Contracting with Other Libraries
22.07 Nonresident Use
22.08 Expenditures
22.09 Annual Report
22.10 Injury to Books or Property
22.11 Theft
22.12 Notice Posted

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of a total of seven (7) members and one member may be a nonresident. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for three (3) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every year of one-third (1/3) the total number or as near as possible, to stagger the terms.

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

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

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

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

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

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

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

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

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

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

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of

all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

22.12 NOTICE POSTED. There shall be posted in clear public view within the Library notices informing the public of the following:

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or

more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be four (4) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

23.03 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)

23.04 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)

23.05 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 submit a preliminary budget to the City Council the first meeting in January each year. In addition, 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. The report shall be presented to the Council each year in July.

(Ord. 565 – Feb. 04 Supp.)

(Code of Iowa, Sec. 392.1)

10. Minutes of Meetings. Subsequent to any meeting, the Commission shall cause to have transmitted to the Clerk the minutes of any meeting, which submission shall be within a reasonable time, but in any event prior to the next Council meeting.

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CHAPTER 24

PARK AND RECREATION COMMISSION

24.01 Parks and Recreation Commission Created
24.02 Members Appointed
24.03 Term of Members
24.04 Duties
24.05 Compensation
24.06 Election of Officers

24.01 PARKS AND RECREATION COMMISSION CREATED. A Parks and Recreation Commission is hereby established for the purpose of operating and directing parks and recreational areas in the City.

(Ord. 591 – Sep. 05 Supp.)

24.02 MEMBERS APPOINTED. The Parks and Recreation Commission shall consist of five (5) members appointed by the Mayor with Council approval, who shall be the duly appointed members of the Commission. In addition, the Activities Director, if any, shall serve as an ex officio member of the Commission in order to better coordinate the recreational activities of the City. The Mayor shall, for good cause shown, appoint such other ex officio members as the Mayor, Council and the Commission feel would be beneficial to the parks and recreation program of the City. ***(Ord. 591 – Sep. 05 Supp.)***

24.03 TERMS OF MEMBERS. The five members shall be appointed for staggered terms with no more than two members having their appointment end in a single year, and all appointments shall be for three years. In the event of the death or resignation of any member, a successor shall be appointed to fill the unexpired term for which such member was originally appointed.

24.04 DUTIES.

1. The Commission shall recommend and review policies, rules, regulations, ordinances and budgets relating to parks and playgrounds of the City and make such reports to the Council as the Commission deems in the public interest. The Commission shall submit a preliminary budget to the City Council the first meeting in January each year. In addition, the Commission shall annually transmit to the Council a report of its activities and recommendations for the development and operation of parks, recreation centers and playgrounds and programs. The report shall be presented to the Council each year in July.

(Ord. 565 – Feb. 04 Supp.)

2. The Commission shall exercise broad responsibility for the development of parks, recreation centers and playgrounds for the City.

The Commission is authorized to create and appoint advisory groups to make studies and to disseminate information on all of its activities. Such groups shall serve without compensation. The Commission shall plan for the general beauty of the City and its approaches.

3. The Commission shall be responsible for integrating its program with other governmental agencies, including but not limited to the City, the community school district, Cedar County and other surrounding municipal units.

24.05 COMPENSATION. Members of the Commission, its subcommittees and workers shall serve without compensation.

24.06 ELECTION OF OFFICERS. The Commission shall elect from its own membership at its regular January meeting its Chairperson and Vice Chairperson, each to serve for a term of one year. It shall, at its regular January meeting, elect a Secretary who may be, but need not be, a member of the Commission.

CHAPTER 25

CABLE TELEVISION COMMISSION

25.01 Purpose
25.02 Established
25.03 Membership
25.04 Objectives and Responsibilities
25.05 Meetings

25.01 PURPOSE. The Council has continuing regulatory jurisdiction over the operation of any franchise granted for a cable television system in the City. The purpose of this chapter is to provide a consistent and formal opportunity for public involvement and perspective regarding cable communications.

25.02 ESTABLISHED. There is established a Cable Television Commission for the City.

25.03 MEMBERSHIP. The Commission shall consist of five (5) members, appointed to staggered three-year terms by the Mayor with approval of the Council. Membership shall consist of representative citizens who shall have demonstrated their interest in cable communications. It is recommended that a majority of the members be residents of the City and subscribers to the cable system at the time of their appointment. The Commission shall annually elect a Chairperson and a Secretary/Treasurer at its first meeting each year.

(Ord. 591 – Sep. 05 Supp.)

25.04 OBJECTIVES AND RESPONSIBILITIES.

1. To monitor the Grantee's performance and operation under the Cable Franchise and to advise the Council regarding any such matters.

2. To provide a public forum for citizens and subscribers to air their complaints and opinions about cable service, and to work with the Grantee for remedies to reasonable complaints and requests.

3. To encourage and develop the Local Access Channel by establishing policies guaranteeing fair and open access to the Channel and its facilities, and to attempt to resolve complaints of censorship and restricted access with regard to use of the Channel and its facilities.

4. To submit an annual report and budget to the Council for the operation and development of the Local Access Channel. This report and budget shall be presented to the Council each year in July. The Commission shall submit a preliminary budget to the City Council the first meeting in January each year. ***(Ord. 565 – Feb. 04 Supp.)***

5. To establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator (Ref. 114.03, Cable Television Customer Service Standards).

(Ord. 565 – Feb. 04 Supp.)

25.05 MEETINGS. The Commission shall hold public meetings at least four (4) times each year. Special meetings may be called by the Chair or by any four (4) members of the Commission.

CHAPTER 26

WEST BRANCH PRESERVATION COMMISSION

26.01 Purpose
26.02 Definitions
26.03 Commission Established
26.04 Membership
26.05 Term
26.06 Quorum
26.07 Permit Required
26.08 Application
26.09 Investigation and Issuance
26.10 Violation
26.11 Nonconforming Signs
26.12 Enforcement
26.13 Annual Report

26.01 PURPOSE. The purpose of this chapter is:

1. To foster civic beauty.

2. To stabilize, improve and protect property values.

3. To strengthen the local economy.

4. To promote the use of and to perpetuate, protect and preserve areas and structures of historic and architectural value for the education, pleasure and welfare of the citizens of the City.

5. To serve as a liaison between the City government and the various aspects of the community and other interested organizations and participants.

6. To develop an awareness of our heritage through historic preservation values regarding the community of West Branch, and to create an environment of the period from the 1870's to the 1920's with an appearance compatible with the themes of the Herbert Hoover National Historic Site, blending the areas where possible. Particular attention should be paid to Heritage Square Park, a sensitive area which provides a transition between the site and downtown West Branch.

7. To develop a grant program designed to aid property owners and/or business owners within the preservation district in the design and purchase of signs that will complement the West Branch Historic District and the West Branch Preservation District. Participation in a resulting grant program would be voluntary.

26.02 DEFINITIONS.

1. "West Branch Historic District" consists of any building in West Branch that is listed on the National Register of Historic Places. All of the terms of this chapter apply to property located within the West

Branch Historic District. *(See Map included in the Appendix to this Code of Ordinances.)*

2. "West Branch Preservation District" consists of all of those properties located within the West Branch Historic District, together with all of those properties in the West Branch Preservation District, as shown on the map included in the Appendix to this Code of Ordinances. The provisions of this chapter relating to signs apply to property located within the West Branch Preservation District. Property located in CB-1, CB-2 and CI-2 Districts may be included in the West Branch Preservation District upon application of the property owner to the City. *(See form of application in the Appendix to this Code of Ordinances.)*

26.03 COMMISSION ESTABLISHED. The Council shall establish and maintain a West Branch Preservation Commission which shall be vested with the responsibility of assuring that new construction, exterior alterations and/or repairs to the buildings situated in the Historic District conform to the requirements set forth in the *Standards For The Restoration and Rehabilitation of Historic Structures* and/or the *Standards for Signage Design and Display* and that signs in the Preservation District conform to requirements set forth in the *Standards for Signage Design and Display*. The West Branch Preservation Commission shall be composed of five (5) members, at least one (1) of whom shall be a resident or owner of property in the Preservation District. The West Branch Historic Preservation Commission recommends that three (3) honorary (non-voting) advisory members be appointed by the Council: the Superintendent of Herbert Hoover National Historic Site or representative, the Director of the Herbert Hoover Presidential Library or representative and the Executive Director of the Herbert Hoover Presidential Library Association or representative. *(See the Appendix to this Code of Ordinances for the Standards for Restoration and Rehabilitation of Historic Structures and Standards for Signage Design and Display.)*

26.04 MEMBERSHIP. The Commission shall consist of five (5) members, appointed to staggered three-year terms by the Mayor with approval of the Council. Appointments are to be made with due regard to proper representation of residents and property owners of the district. The members of the West Branch Preservation Commission shall elect the Chair for a term of one year by majority vote at the first scheduled meeting each year.

(Ord. 591 – Sep. 05 Supp.)

26.05 TERM. The term of membership on the West Branch Preservation Commission shall be two (2) years. Initial appointment is made in such a manner as to stagger the terms.

26.06 QUORUM. Three (3) voting members of the West Branch Preservation Commission shall constitute a quorum.

26.07 PERMIT REQUIRED. It is unlawful for any person to begin new construction or to make any external alteration or repairs, including signs, in any manner whatsoever to any building within the confines of the Historic District, or to install or change a sign within the Preservation District, without first obtaining a permit as provided herein.

26.08 APPLICATION. Applicants for permit under this chapter must file with the Mayor an application in writing on a form furnished for such purpose, which shall give the following information:

1. Name of applicant and property owner.

2. Permanent address of applicant and full address of property owner.

3. A detailed description of the nature of the proposed construction, external alteration and/or repair to the building.

4. A drawing or sketch of proposed construction or external alteration.

5. The intended start and finish dates for alteration and/or repair.

(See the Appendix to this Code of Ordinances for Permit Application Form.)

26.09 INVESTIGATION AND ISSUANCE.

1. Upon receipt of application for permit under this chapter by the Mayor or designated alternate, the application shall be checked for compliance with the City of West Branch Building Codes within five (5) days. It shall also be referred upon receipt to the Chairperson of the West Branch Preservation Commission.

2. Applications for construction, alterations and/or repairs not in compliance with City of West Branch Building Codes will be returned to the applicant with a complete explanation of changes necessary for compliance.

3. Upon receipt of application, the Chairperson of the West Branch Preservation Commission shall call a meeting of said Commission. The

Commission shall approve or disapprove the application by majority vote based on the *Basic Standards for the Restoration and Rehabilitation of Historic Structures, Standards for Signage Design and Display, Checklist and Example of Prohibited Signs*. (*See Appendix to this Code of Ordinances.)* The application and a report of Commission action shall be returned to the Mayor within ten (10) calendar days from date of receipt.

4. Upon receipt of the application and report from the West Branch Preservation Commission, the Mayor or designated agent will issue a permit to authorize construction, alterations and repairs receiving approval of the Commission. The permit shall be issued within twelve (12) calendar days from the date of the application. The permit fee shall be $10.00.

5. Upon receipt of an unfavorable report from the West Branch Preservation Commission, the Mayor or his or her assigned agent will notify applicant of the rejection and the reason therefor. The applicant will also be informed in the same notification that the rejection can be appealed through the Council at the following regular meeting, or that a revised application may be submitted to the Commission for review.

6. The Council shall serve as an arbitrator on all appeals. The Council shall make a decision within 30 days of an appeal. An appeal of the decision of Council, if any, must be made with the Clerk of District Court within 60 days of the decision of Council.

26.10 VIOLATION. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor; if such violation continues, each day's violation shall be considered a separate offense.

26.11 NONCONFORMING SIGNS. All signs installed or displayed on September 9, 1991, are allowed to remain. All signs installed or displayed subsequent to September 9, 1991, and all future signs, including replacements or modifications, must fully comply with this chapter. Variances may be granted upon showing of undue hardship. Before any variance is granted the following conditions must be shown to be present: the sign must be located outside a building and must display a trademark or symbol recognized State-wide or nationally.

26.12 ENFORCEMENT. The Mayor or such officer(s) of the City as may be designated by the Mayor shall be responsible for the enforcement of the provisions of this chapter and shall notify those persons or establishments who are in violation of this chapter. The Historic Preservation Commission or any private citizen may notify the Mayor that a sign may be in violation of this chapter, but it is the Mayor's duty to enforce this chapter.

26.13 ANNUAL REPORT. The Commission shall report annually to the Council on its activities. The report shall be presented to the Council each year in July. The Commission shall submit a preliminary budget to the City Council the first meeting in January each year. ***(Ord. 565 – Feb. 04 Supp.)***

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CHAPTER 27

WEST BRANCH ECONOMIC DEVELOPMENT COMMISSION

(Repealed by Ordinance No. 630, April 16, 2007)

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CHAPTER 28

WEST BRANCH ANIMAL CONTROL COMMISSION

28.01 Created
28.02 Membership
28.03 Terms of Members
28.04 Organization
28.05 Meetings
28.06 Duties
28.07 Compensation

28.01 CREATED. There is created and established a committee to be known as the West Branch Animal Control Commission.

28.02 MEMBERSHIP. The Commission shall consist of five (5) members with the majority of members being residents of the City of West Branch. Other members may reside in the West Branch Public School District. All members shall be appointed by the Mayor with approval of the City Council. An Animal Control Officer and City Administrator shall serve as ex officio members.

(Ord. 610 – Nov. 06 Supp.)

28.03 TERMS OF MEMBERS. The five members shall be appointed for staggered terms with no more than two members having their appointment end in a single year, and all appointments shall be for three years.

(Ord. 565 – Feb. 04 Supp.)

28.04 ORGANIZATION. Within thirty (30) days after their appointment, the Commission shall meet and organize by electing a Chairperson, Vice Chairperson and Secretary. The elected officers shall hold office for one year, with annual elections being held in January.

28.05 MEETINGS. The Commission shall meet at least on a quarterly annual basis and may hold such other meetings as circumstances may require. The Commission shall meet at regularly appointed time, which meeting shall be open to the public, and shall keep a complete record of its transactions. A majority of the members shall constitute a quorum for all purposes. Absence from three (3) consecutive regular meetings without formal consent from the Chairperson of the Commission shall be grounds for the City Council, at its discretion, to remove said member and appoint a replacement. Minutes of regular meetings shall be filed with the City within ten (10) days following said meeting.

28.06 DUTIES. The West Branch Animal Control Advisory Commission shall have and exercise the following duties:

1. Act in an advisory capacity to the City Council in the review and development of rules, regulations and ordinances for the care and control of animals in the City;

2. Study and make recommendations regarding the acquisition and provision of services and facilities for the care and control of animals by the City;

3. Study and make recommendations regarding cooperation between the City, other government entities, veterinarians, animal owners and humane groups in the care and control of animals;

4. Study and make recommendations regarding the preparation and compilation of data and reports relative to animal care and control in the City;

5. Study and make recommendations regarding the animal population and care and control of animals in the City;

6. Establish a permanent education program. To reduce abuse and neglect of animals, it would be important to educate the public about City ordinances, owner responsibilities and animal control procedures. Maintain photo database of dogs and cats;

7. Create an annual budget for carrying out the provisions of this chapter including fees and penalties;

8. Perform such additional duties involving care and control of animals as may be delegated by the City Council;

9. Prepare an annual written report to the City Council detailing the performance of its duties. The report shall be presented to the Council each year in July. The Commission shall submit a preliminary budget to the City Council the first meeting in January each year.

(Ord. 565 – Feb. 04 Supp.)

28.07 COMPENSATION. Commission members shall serve without compensation, but may be entitled to the same expenses as City employees, upon prior approval of the City Council.

(Ch. 28 – Ord. 559 – Mar. 03 Supp.)

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Peace Officers Appointed
30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Residency Requirement

30.01 DEPARTMENT ESTABLISHED. The police department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

30.02 ORGANIZATION. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

30.04 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11 [2])
(IAC, 501-3 and 501-8)

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief and that appointment and dismissal of the Police Chief are subject to the consent of the majority of the City Council. The Mayor shall select, subject to the approval of Council, the other members of the Police Department. ***(Ord. 540 – Jan. 02 Supp.)***

(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

30.08 DEPARTMENTAL RULES. The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the Council, as may be necessary for the operation of the department.

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

30.11 RESIDENCY REQUIREMENT. All full-time peace officers, including the Police Chief, shall become residents of the City of West Branch, and continued residency in the City is a requirement for continued employment with the City. ***(Ord. 673 – Mar. 11 Supp.)***

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CHAPTER 31

RESERVE POLICE FORCE

31.01 Police Reserves Created
31.02 Removal of Members
31.03 Rules
31.04 Uniform and Insignia
31.05 Sidearms
31.06 Employment Status

31.01 POLICE RESERVES CREATED. There is hereby created the City police reserves.

1. Membership. The police reserves shall consist of a volunteer police reserve company composed of no more than four (4) members. Membership in the police reserves shall be determined by standards as provided pursuant to Iowa Code, Sec. 80D.1 et seq. All prospective members of the reserves shall submit to the MMPI psychological test before commencing duties with the City. Members of the police reserves shall be appointed by the Mayor, subject to approval by the Council, and after taking an oath of office. ***(Ord. 672 – Feb. 13 Supp.)***

2. Physical Examination. No person shall be appointed to the police reserves until he or she has satisfactorily complied with the standards set out in Iowa Code, Sec. 80D.1 et seq.

3. Supervision. The Chief of Police shall have supervision of the police reserves, subject to the control and direction of the Council.

31.02 REMOVAL OF MEMBERS. The members of the police reserves shall serve at the discretion of the Council. They shall be removed and discharged from such position and their City employment terminated by the Council after recommendation by the Chief of Police.

31.03 RULES. The police reserves shall be subject to applicable rules and regulations of the police department. These rules shall become effective only upon approval by the Council. The Police Chief may prescribe other rules and regulations in regard to the police reserves, not inconsistent with ordinances or laws, subject to the approval of the Council.

31.04 UNIFORM AND INSIGNIA. During their hours of duty, members of the police reserves shall wear a uniform, which shall be that prescribed by the Chief of Police. They shall also wear a badge of office upon their outer garments and in plain view, which uniform and badge shall identify their membership in the police reserves.

31.05 SIDEARMS. A member of the police reserves may carry a sidearm on his or her person while in uniform and on duty, which uniform shall be that prescribed by the Chief of Police. However, no member of the police reserves shall carry sidearms until he or she has been certified by the Iowa Law Enforcement Academy. ***(Ord. 616 – Nov. 06 Supp.)***

31.06 EMPLOYMENT STATUS. Members of the police reserves shall be considered City employees while they are performing police duties as authorized and directed by the Chief of Police. They shall receive a salary from the City of $1.00 per year. Members while in such employment status shall be subject to the sections of the code applicable to police departments.

(Code of Iowa, Sec. 80D.6 & 80D.11)

(Ch. 31 – Ord. 549 – Jun. 02 Supp.)

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside Fire District
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Charges for Services

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

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council, not to exceed 35 members.

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

7. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars ($200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire

Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars ($50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

35.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 CHARGES FOR SERVICES. The Fire Chief may cause to have charges assessed for all services rendered by the department against individuals, businesses or any other entities. Charges may not be assessed against (unless otherwise provided for herein): (1) residents/taxpayers of Cedar or Johnson County, Iowa; or (2) residents/taxpayers of a county, municipality or other fire protection district which has a mutual aid agreement with the department. Charges will be assessed to any individuals, businesses or any other entities where it is determined that: (1) any illegal burning (or other illegal activity requiring the department's services) has taken place; (2) where a hazardous materials incident has occurred; or (3) where arson has been detected. The Fire Chief shall initially determine (and periodically adjust) reasonable charges for

the department's services based upon current, industry-wide, standard practices for such activities, subject to the following criteria:

1. There shall be no charge for "man-hours."

2. When charges are assessed there shall be a base minimum charge of one (1) hour with a minimum incremental charge of one-quarter (¼) hour thereafter.

(Ord. 518 – Mar. 00 Supp.)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Notification
36.05 Disclosure

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

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

1. "Cleanup" means the same as set out in Section 455B.381, subsection 1, Code of Iowa.

2. "Hazardous condition" means the same as set out in Section 455B.381, subsection 4, Code of Iowa.

3. "Hazardous substance" means any substance as defined in Section 455B.381, subsection 5, Code of Iowa.

4. "Hazardous waste" means those wastes which are included by the definition in Section 455B.411, subsection 3, Code of Iowa, and the rules of the Iowa Department of Natural Resources.

5. "Person having control over a hazardous substance" means the same as set out in Section 455B.381, subsection 7, Code of Iowa.

6. "Treatment" means a method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance nonhazardous, safe for transport, amenable for recovery, amenable for storage or to reduce it in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it nonhazardous.

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous substance or waste may enter the environment or be emitted into

the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the person having control over a hazardous substance. If the person having control over a hazardous substance does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may proceed to procure cleanup services and bill the responsible person. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance or to accomplish, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

36.04 NOTIFICATION. The first City officer or employee who arrives at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the Police Department, which shall notify the proper State office in the manner established by the State. Notification must be made not later than six (6) hours after the onset of the hazardous condition as set out in Section 455.385, Code of Iowa.

36.05 DISCLOSURE. The person having control over a hazardous substance shall make known to emergency response personnel the name and chemical composition of the product. If this information is not readily available, the person having control over a hazardous substance will make every effort to make it available.

CHAPTER 37

FALSE ALARMS

37.01 Definitions 37.02 False Alarms

37.01 DEFINITIONS. As used in this chapter, the following definitions apply:

1. "Alarm system" means an assembly of equipment and devices directly connected to the Police Department or the Cedar County Sheriff's Office arranged to signal the presence of a hazard requiring urgent attention and to which agents of the Police Department are expected to respond. The term "alarm system" includes, but is not limited to, intrusion or burglar alarms of the audible or direct line radio or electronic type.

2. "Alarm user" means any person, firm, partnership, association, corporation, company or organization of any kind on whose premises an alarm system is maintained.

3. "False alarm" means the activation of an alarm system connected by any means to the Police Department or Cedar County Sheriff's Office through mechanical failure, malfunction, improper installation or the negligence of the alarm user or of the installer's or user's employees or agents.

4. "Intrusion alarm" means any alarm connected by any means to the Police Department or Cedar County Sheriff's Office which signals any unauthorized intrusion into a premises and includes, but is not limited to, burglar and holdup alarms.

37.02 FALSE ALARMS.

1. For each residential false alarm, an alarm user shall be charged fifty dollars ($50.00) per violation within twelve (12) months. For each commercial or industrial false alarm, an alarm user shall be charged five hundred dollars ($500.00) per violation within twelve (12) months. The fee shall be imposed on the fourth violation and any subsequent violations during a twelve-month period, with the first three violations being written as a warning.

2. All bills for false alarm fees shall be issued by first class mail to the alarm user. Said notice shall also inform the alarm user of the right

to request a hearing before the Police Chief for intrusion-type alarms or Fire Chief for fire alarms, by filing a written request with the Police Chief or Fire Chief within thirty (30) calendar days of being billed and shall further inform said alarm user that failure to request a hearing shall constitute waiver of right to a hearing.

3. When a hearing is requested in a timely manner, the Police Chief or Fire Chief shall serve on the alarm user written notice of the time and place of hearing by first class mail at least ten (10) calendar days prior to the date set for hearing.

4. After the hearing, the Police Chief or Fire Chief may waive the bill if satisfied there is no deficiency.

(Ord. 643 – Aug. 08 Supp.)

[The next page is 185]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Public Exposure

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 PUBLIC EXPOSURE. Except as hereinafter provided, no person shall expose those parts of his or her body hereinafter listed to another person in any public place, in any privately owned place open to the public, or in any

place where such exposure is seen by another person located in any public place:

1. A woman's nipple, the areola of a woman's breast, or full breast, except as necessary in the breast feeding of a baby.

2. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This section does not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposure occurs incident to the prescribed use of those facilities.

(Ord. 577 – Mar. 05 Supp.)

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public Safety Entities
41.03 Refusing to Assist Officer
41.04 Harassment of Public Officers and Employees
41.05 Abandoned or Unattended Refrigerators
41.06 Antenna and Radio Wires
41.07 Barbed Wire and Electric Fences
41.08 Discharging Weapons
41.09 Throwing and Shooting
41.10 Urinating and Defecating
41.11 Fireworks

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.08 DISCHARGING WEAPONS.

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

2. No person shall intentionally discharge a firearm in a reckless manner.

41.09 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 or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without written consent of the Council.

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

41.10 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor,

hallway, steps, stairway, doorway or window thereof, or onto any public or private land.

41.11 FIREWORKS. Fireworks are not permitted unless written application is received and approved by the Council.

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has

accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Container on Streets and Highways

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except: (1) on premises covered by a liquor control license; (2) on the grounds of Beranek Park as set forth by Council resolution; (3) within Town Hall as set forth by Council resolution; (4) on the grounds of the Cookson Community Center as set forth by Council resolution; or (5) as permitted by separate resolution of the Council. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor. ***(Ord. 654 – May 09 Supp.)***

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINER ON STREETS AND HIGHWAYS. (*See Section 62.08 of this Code of Ordinances.*)

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency

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

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

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

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

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

D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an

appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

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

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

G. "Unemancipated" means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. A curfew applicable to minors is established and shall be enforced as follows: Unless accompanied by a responsible adult, no minor shall be in any public place during the following times:

A. Sunday through Thursday – 11:00 p.m. to 5:00 a.m.

B. Friday and Saturday – 12:00 midnight to 5:00 a.m.

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

A. The minor is accompanied by a responsible adult.

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

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

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be

engaged or, if traveling, within one hour after the end of work;

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

(3) Governmental or political activity or, if traveling, within one hour after the end of the activity;

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

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

(6) The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.

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

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

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

5. Enforcement Procedures.

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

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to

the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

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

6. Penalties.

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

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

C. Minor's First Violation. In the case of a first violation by a minor, the peace officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a simple misdemeanor.

7. Notice. Notice of the ordinance codified in this chapter and its contents may be posted in or about such public or quasi-public places as may be designated by the Council or the Police Department in order that the public may be constantly informed of the existence of such ordinance and its regulations.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes.

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

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

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

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CHAPTER 47

MUNICIPAL PARK
POLICIES AND REGULATIONS

47.01 Reservations
47.02 Parking
47.03 Fires
47.04 Trash
47.05 Building Reservation Responsibilities
47.06 Park Hours
47.07 Alcohol Consumption
47.08 Damage
47.09 Private Property

47.01 RESERVATIONS. Reservations for the building and/or volleyball courts for group functions are to be made in person at the City Office during regular business hours: Monday - Friday, 8:00 a.m. to 4:00 p.m. A list of park regulations must be obtained from the City Office and signed by the party making the reservations.

47.02 PARKING. Parking is limited to designated parking areas only. Violators will be towed at the owner's expense. Absolutely no motorized vehicles are allowed on the park trails. Park access for the unloading of equipment on the grounds for functions (carnival, day camp, volleyball tournament, etc.) must be approved by the Park and Recreation Commission or City Staff.

47.03 FIRES. Open fires will be allowed, but limited to the designated fire receptacles. Fires must be supervised, extinguished, and cleaned up before exiting the park. Acceptable fire fuels include charcoal and wood.

47.04 TRASH. All park patrons are responsible for proper cleanup and disposal of their trash. Receptacles are provided for this.

47.05 BUILDING RESERVATION RESPONSIBILITIES. Before departure, building responsibilities include: securing all doors and windows, turning off lights and water faucets, sweeping of floors, wiping down tables, and removing trash from the building as stated in Section 47.04.

47.06 PARK HOURS. Normal park hours are from 7:00 a.m. to 10:00 p.m. daily unless approved by the Park and Recreation Commission or City Staff.

47.07 ALCOHOL CONSUMPTION. Alcohol consumption shall take place only during normal park hours as stated in Section 47.06 and shall remain within the park grounds at all times.

47.08 DAMAGE. Damage to the park facilities will result in an assessment for the cost of replacement materials and resulting labor.

47.09 PRIVATE PROPERTY. Users of park facilities shall be respectful of the private property adjacent to the park.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Notice to Abate: Contents
50.07 Method of Service
50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

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

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue,

highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

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

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

9. Weeds, Brush. Grass over 6 inches in height and any and all noxious weeds or dense growth of vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard or render the streets or highways of the City unsafe for public travel or interfere with the proper construction or repair of said streets or highways.

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

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

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Drug Paraphernalia **(See Chapter 52)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.

2. Location of Nuisance. The location of the nuisance.

3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

4. Reasonable Time. A reasonable time within which to complete the abatement.

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

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

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

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

50.09 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or

condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

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.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Junk and Junk Vehicles Prohibited
51.03 Junk and Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Notice to Abate

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

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

2. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

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

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

D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within 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

DRUG PARAPHERNALIA

52.01 Purpose
52.02 Controlled Substance Defined
52.03 Drug Paraphernalia Defined
52.04 Determining Factors
52.05 Possession of Drug Paraphernalia
52.06 Manufacture, Delivery or Offering For Sale
52.07 Nuisance

52.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

52.02 CONTROLLED SUBSTANCE DEFINED. The term "controlled substance" as used in this chapter is defined as the term "controlled substance" is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

52.03 DRUG PARAPHERNALIA DEFINED. The term "drug paraphernalia" as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

52.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. Proximity To Substances. The proximity of the object to controlled substances.

5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

52.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

52.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

52.07 NUISANCE. Violation of this chapter shall constitute a nuisance which may be abated in the manner provided in Chapter 50 of this Code of Ordinances, or in the alternative may be abated by injunction in the Iowa District Court.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Reporting Disease
55.03 Animal Neglect
55.04 Prohibited Acts and Conditions
55.05 Administration and Enforcement
55.06 Rabies and Disease Control
55.07 Nuisances
55.08 Prohibited Animals
55.09 Livestock
55.10 Animals at Large Prohibited
55.11 Animals Prohibited on Private Property
55.12 Animals Prohibited in Food Establishments
55.13 Tying Animals
55.14 Solid Waste Removal
55.15 Salmonella Warning Notice
55.16 Classification of Animals
55.17 Impoundment and Redemption of Animals
55.18 Fees
55.19 Releasing or Molesting Animals
55.20 Responsibility of Owner
55.21 Penalties
55.22 Licensing

55.01 DEFINITIONS. For use in this chapter, the following words and phrases are defined:

1. "Abandon" means failure to provide adequate care for a period of twenty-four (24) hours or to cease to provide control over and shelter, food and water for an animal without having made satisfactory arrangements for care, custody and physical control of such animal.

2. "Adequate food" means providing at suitable intervals of not more than twenty-four (24) hours if the dietary requirements of the species so require, a quantity of wholesome foodstuff, suitable for the physical condition and age of the animal, served in a clean receptacle or container, sufficient to maintain an adequate level of nutrition for such animal.

3. "Adequate indoor shelter" means a properly ventilated and illuminated facility, sufficiently regulated by heating or cooling to protect the animal from extremes of temperature and sufficient to provide for the animal's health and comfort.

4. "Adequate outdoor shelter" means a structurally sound and weatherproof shelter made up of three (3) solid sides, a roof and a floor off the ground, which provides access to shade from direct sunlight and protection from exposure to weather conditions.

5. "Adequate sanitation" means cleaning or sanitizing of enclosures and housing facilities to remove excreta and other waste materials and dirt so as to minimize health hazards, flies and odors.

6. "Adequate space" means primary enclosures and housing facilities constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with

adequate freedom of movement to maintain physical condition. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress or abnormal behavior patterns.

7. "Adequate veterinary care" means prompt and reasonable care provided to a sick, diseased or injured animal with a proper program of continuing care by a veterinarian or euthanized in a manner deemed appropriate by the City.

8. "Adequate water" means reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner.

9. "Animal" means any living creature, domestic or wild, except a human being.

10. "Animal acts or exhibitions" means any display containing one or more live animals which are exposed to public view for entertainment, instruction, or advertisement.

11. "Boarding kennel" means any commercial place or establishment, other than the City animal shelter, where dogs or cats or other animals not owned by the proprietor, owner, or person in possession of the premises are sheltered, fed, watered and generally cared for in return for consideration of a fee.

12. "Cat kennel" means any lot, building, structure, enclosure or premises where five (5) or more cats over the age of four (4) months are kept or maintained.

13. "Commercial kennel" means a place or establishment where the owner or employees perform grooming or training services for dogs or cats in return for a consideration or fee.

14. "Defilement" means to foul, dirty, pollute or make filthy, either by the animal's body or wastes or by the animal carrying or dragging any foul material.

15. "Dog kennel" means any lot, building, structure, enclosure, or premises where four (4) or more dogs over the age of four (4) months are kept or maintained.

16. "Guard/attack dog" means a dog trained to attack persons upon the command of its master or custodian or upon the actions of an individual.

17. "Leash" means a rope, line, thong, chain or other similar restraint, not more than ten (10) feet in length, of sufficient strength to hold the animal in check.

18. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, emus; farm deer, as defined in Section 481A.1, Code of Iowa, as amended; or poultry.

19. "Molest" includes not only biting and scratching a human or other animal, but also any annoyance, interference with or meddling with any such human or animal.

20. "Owner," in addition to its ordinary meaning, includes any person who owns, keeps or harbors an animal.

21. "Pet shop" means any place of business or other commercial establishment where animals are bought, sold, exchanged, or offered for sale.

22. "Private property" means all buildings and other property owned by a private person, including buildings, yards and service and parking areas.

23. "Prohibited animals" means any of the following genus/species of animals:

A. *Canidae* within the order *Carnivora* (e.g., wolves, wolf-dog hybrids which are at least 50 percent wolf, coyotes, coyote-dog hybrids which are at least 50 percent coyote, foxes, jackals), but excluding *Canis familiaris*, the domestic dog.

B. *Felidae* within the order *Carnivora* (e.g., lions, tigers, jaguars, leopards, cougars, lynx, ocelots, bobcats, jungle cats), but excluding *Felis domestica*, the domestic cat.

C. *Procyonidae* within the order *Carnivora* (e.g., coatis, pandas, raccoons, *Procynonids*).

D. *Ursidae* of the order *Carnivora* (e.g., black bears, brown bears, grizzly bears, polar bears).

E. *Chiroptera* (e.g., bats).

F. Primates, including all families, e.g., *Cebidae*, *Cercopithecidae*, *Callithricedae*, *Lemuridae*, *Lorisidae*, *Tarsiidae*, *Colobinae*, *Hylobatidae*, *Pongidae* (e.g., monkeys, baboons, marmosets, tamarins, capuchin, chimpanzees, orangutan, gorillas, apes).

G. *Apidae*, specifically Africanized strains of the *Apis Mellifera* honey bee.

H. *Marsupialia* (e.g., kangaroos, wallabies, koala, sugar gliders).

I. *Crocodylidae* of the order *Squamata* (e.g., crocodiles, alligators, caimans, gavials).

J. *Helodermatidae* of the order *Squamata* (e. g., gila monsters beaded lizards).

K. Lizards of the genus *Varanus*.

L. *Crotalidae*, *Viperidae*, *Elapidae*, *Opisthoglyphous Colubridae*, and all other orders which include poisonous or venomous reptiles (e.g., rattlesnakes, vipers, corals, copperheads, cottonmouths, moccasins, sea snakes, puff adders, malagasy hognoses).

M. *Eunectes* of the order *Squamata* (e.g., green anaconda).

N. *Python Sebae*, *Python Reticulatus*, *Python Molorus*, *Morelia Amethystina* of the order *Squamata*.

O. Venomous spiders of the families *Teridiiae* and *Loxoscelidae* respectively, and scorpions of the order *Scorpiones*, excluding *pandinus imperator* (emperor scorpion).

P. All wild animals indigenous to the State of Iowa, as defined in Chapter 481A, Code of Iowa, as amended.

Q. Vietnamese pot-bellied pigs.

R. Ostriches, emus, rheas, and peafowls.

S. *Artiodactyla* and *Camelidae*, including camels, alpacas, llamas and vicuna.

24. "Public property" means buildings, right-of-way or other public property owned or dedicated to the use of the City and other governmental entities.

25. "Veterinarian" means a person duly licensed by the State of Iowa to practice veterinary medicine.

26. "Veterinary hospital" means an establishment regularly maintained and operated by a veterinarian for the diagnosis and treatment of diseases and injuries to animals and which may board animals.

55.02 REPORTING DISEASE. Any person having knowledge of the presence of any disease among animals capable of being communicated to humans shall immediately report such knowledge to the County Health Officer.

55.03 ANIMAL NEGLECT.

1. No person shall neglect, abandon, abuse, torture, torment, mutilate, overwork, overload, beat, kill or cause the death of any animal by any means which causes unjustified pain, distress, or suffering, or fail to provide any animal with adequate care, food, water, exercise, sanitation, space, indoor and outdoor shelter or veterinary care; nor shall any person transport any animal in or upon any area of a vehicle which is not enclosed unless the animal is tethered or restrained in such a manner as to prevent the animal from being thrown from the vehicle.

2. A law enforcement or animal control officer, after consulting with a veterinarian licensed pursuant to Chapter 169, Code of Iowa, as amended, may rescue a neglected animal as provided in this section. The officer may enter onto private property to rescue a neglected animal if the officer obtains a search warrant issued by a court or enters onto the premises in a manner consistent with the laws of the State of Iowa and the United States, including Article 1, Section 8, of the Constitution of the State of Iowa, and the Fourth Amendment to the Constitution of the United States.

3. If an animal is rescued pursuant to this section, the City shall provide for the maintenance of the neglected animal at the City shelter. The City may contract with an animal care provider for the maintenance of the neglected animal. The City shall post a notice in a conspicuous place at the location where the animal was rescued. The notice shall state that the animal has been rescued by the City pursuant to this section and Section 717B.5, Code of Iowa, as amended. The City shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the sale of the animal or any reimbursement ordered by a court pursuant to Section 717B.4, Code of Iowa, as amended.

4. The animal shall be subject to disposition as required by a court pursuant to Section 717B.4, Code of Iowa, as amended.

5. The disposition of a neglected animal rescued by the City shall occur as provided in Section 717B.4, Code of Iowa, as amended.

55.04 PROHIBITED ACTS AND CONDITIONS. No person shall:

1. Poisoned Meat. Expose or permit to be exposed any poisoned meat or other poisoned substances on public or private property where the same may be removed, handled or consumed by an animal.

2. Traps. Trap or attempt to trap any animal with other than a non-kill live trap deemed acceptable to the City. Excepted from this prohibition are instant kill traps for the purpose of small rodent pest control.

3. Animals as Prizes. Offer to give any live animal as a gift or prize for any contest or other competition, or as a business inducement or promotion.

55.05 ADMINISTRATION AND ENFORCEMENT.

1. Enforcement. All police officers of the City shall be considered animal control officers and it shall be the duty of such animal control officers to enforce the provisions of this Chapter and animal-related regulations of the Code of Iowa, and to impound any animal found running at large as defined herein or neglected as provided in Section 55.03 of this chapter. The animal control personnel shall provide adequate and wholesome food for animals impounded, shall provide careful and humane treatment toward such animals and shall also provide for the disposition of animals in a manner deemed appropriate by the City. An impound facility shall be designated by resolution of the City Council.

2. Contracting For Service. As provided by law, the City may enter into a lease or contract with some regularly incorporated society organized for the express purpose of prevention of cruelty to animals for the use of its facilities for the restraining and impounding of animals consistent with good practices of proper care for animals.

3. Interference With Animal Control Officers. No person shall willfully interfere with, molest or injure any animal control officer or seek to release any animal properly in the custody of such officer.

55.06 RABIES AND DISEASE CONTROL.

1. Isolation and Quarantine of Suspect Animals.

A. It is the duty of the City animal control officer authorized to impound animals in the City to cause to be placed in isolation and under quarantine for observation for a minimum period of ten (10) calendar days any such animal suspected of being infected with rabies or other diseases communicable to humans and also any animal that has bitten or caused a skin abrasion upon any human in the City.

B. Such isolation and quarantine shall be either at the West Branch Animal Clinic or in a veterinary hospital, except if such

animal is currently vaccinated against rabies, the animal may be placed in the custody of the owner on the owner's premises during the isolation and quarantine period if the owner resides in the City. When isolation and quarantine on the owner's premises is authorized, it will be at the discretion of and under the direct supervision of the City.

C. The expense of isolation and quarantine at a veterinary hospital will be borne by the owner. If the animal is placed in isolation and under quarantine in an animal shelter authorized by the City, a fee shall be charged to the owner. Every owner or person having possession, custody or control of an animal known to be rabid or which has been bitten by an animal infected with rabies shall immediately report such fact to the City and shall have such animal placed in isolation and quarantine as directed by the City for such period as may be designated and at the expense of the owner.

2. Reports Required.

A. Physicians. It is the duty of every physician or other medical practitioner in the City to make written reports to the City of the names and addresses of persons treated for bites inflicted by animals, together with such other information as will assist in the prevention of rabies.

B. Veterinarians. It is the duty of every veterinarian in the City to report to the City any diagnosis of animal rabies.

C. Owners. It is the duty of the owner of any animal or any person having knowledge of such animal biting or causing a skin abrasion upon any human in the City to promptly report such fact to the City.

3. Emergency Proclamation. Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Council may issue a proclamation ordering every owner of an animal to confine the same securely on the owner's premises at all times for such period of time as is deemed necessary.

55.07 NUISANCES. The following acts and circumstances are hereby declared to be public nuisances:

1. Accumulation Of Wastes. No person shall keep animals on private property in such numbers or in such manner that allows for the accumulation of animal waste so as to become detrimental to the public

health and/or the animal's health, as determined by the County Health Officer and a licensed veterinarian.

2. Noisy Animals. No person shall cause or allow any animal under such person's care, charge, custody, or control to emit any noise which annoys, disturbs, offends, or unreasonably interferes with the comfortable enjoyment of life or property of the neighborhood or general public. The provisions of this subsection do not apply to a commercial establishment which is permitted pursuant to the Zoning Code.

3. Animals Damaging Property. No person shall allow an animal to cause any damage or defilement to public or private property, including, but not limited to, depositing of excrement without prompt removal.

4. Harassment by Animals. No person shall allow an animal to molest any human or animal on public or private property when the human or animal is lawfully on the property.

5. Animals Injuring or Killing Other Animals. No person shall allow an animal to molest or kill wildlife, birds, animals or domestic animals on public or private property. This section does not apply to rodents generally considered pests, such as mice and rats.

55.08 PROHIBITED ANIMALS. No person shall keep or maintain an animal declared to be prohibited under this chapter. Notwithstanding this provision:

1. Indigenous wildlife rehabilitators who possess permits required by the United States Fish and Wildlife, or its successor, or permits required by Iowa State Department of National Resources, or its successor, or a valid permit issued by the Division of Animal Control of the City, or its successor, may maintain prohibited wildlife for rehabilitation purposes.

2. A prohibited animal which is properly and appropriately restrained may be transported to a veterinarian for emergency medical care or treatment and may remain within the confines of the veterinary clinic or hospital as long as the animal is receiving medical treatment.

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

55.10 ANIMALS AT LARGE PROHIBITED.

1. It shall be unlawful for any person to permit any animal to be at large or to stray beyond the property of such person unless such animal is restrained by leash or confined within a motor vehicle. An animal shall not be deemed to be at large if it is contained by an electronic containment system, provided further that electronic containment systems shall not be allowed for dogs considered potentially dangerous as set forth in Section 55.16, Classification of Animals.

2. Notwithstanding the provisions of subsection 1, any animal shall be deemed at large at any time when the animal is attacking humans, other animals, or destroying property or is on any public property, except when under restraint as set forth above. In addition, any female animal in estrus shall be deemed at large at any time, except:

A. When housed in a building completely enclosed; or

B. When housed in a veterinary hospital or boarding kennel licensed or registered with the State; or

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; or

D. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.

55.11 ANIMALS PROHIBITED ON PRIVATE PROPERTY. No animal shall be taken, allowed or permitted on private property not owned by the owner of the animal without the permission of the person owning such property or the person in possession or control thereof.

55.12 ANIMALS PROHIBITED IN FOOD ESTABLISHMENTS. No animal shall be allowed, taken or permitted on or in any building, store, restaurant or tavern where food or food products are sold, prepared or dispensed to humans other than the owners thereof, except for animals properly trained and certified to assist persons with disabilities while such animals are acting in such capacity.

55.13 TYING ANIMALS. No animal or livestock shall be tied by any person to a utility pole, parking meter, building, structure, fence, sign, tree, shrub, bush, newspaper or advertising rack or other object on public property or tied on private property without the consent of the owner or person in possession or control thereof or tied in such a manner as to intrude onto a public

sidewalk or street or inhibit legal entry onto property, except for animals properly trained and certified to assist persons with disabilities while such animals are acting in such capacity.

55.14 SOLID WASTE REMOVAL. Any person who walks an animal on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste, except for animals properly trained and certified to assist persons with disabilities while such animals are acting in such capacity.

55.15 SALMONELLA WARNING NOTICE. Pet shops displaying, selling, or transferring turtles, tortoises or iguanas must display in public view a notice of warning regarding the transmission of Salmonella.

55.16 CLASSIFICATION OF ANIMALS.

1. Purpose. The purpose of this section is to establish a procedure whereby animals that pose a significant threat of causing serious injury to humans, other animals, or property are identified and subjected to precautionary restrictions before any such serious injury occurs.

2. Classification of Levels of Dangerousness. An animal shall be classified as potentially dangerous or dangerous based upon specific behavior exhibited by the animal. An animal will be considered a potentially dangerous animal if it exhibits behavior described in subsections A and B of this section. An animal will be considered a dangerous animal if it exhibits behavior described in subsections C and D. Behaviors establishing various levels of potential dangerousness are as follows:

A. Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal.

B. Level 2 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

C. Level 3 behavior is established if an animal, whether confined or at large, aggressively bites or causes physical injury less than serious injury to any person or other domestic animal.

(Ord. 583 – Jul. 05 Supp.)

D. Level 4 behavior is established if:

(1) An animal, whether or not confined, caused the serious injury or death of any person; or

(2) An animal, while at large, kills or causes serious injury to any domestic animal; or

(3) An animal engages in or is found to have been trained to engage in exhibitions of fighting; or

(4) An animal that has been classified as a Level 3 dangerous animal repeats the behavior described in subsection C of this section after the owner receives notice of the classification level.

E. Notwithstanding subsections A through D of this section, the Chief Animal Control Officer shall have discretionary authority to refrain from classifying an animal as potentially dangerous, or dangerous even if the animal has engaged in behaviors specified in subsections (1) through (4) of this section, if the Chief Animal Control Officer determines that the behavior was the result of:

(1) A person provoking, abusing, or tormenting the animal, or other extenuating circumstances.

(2) A person who is knowingly trespassing on the property of the animal's owner.

(3) Another animal trespassing upon the property of the animal's owner.

(4) The animal responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in lawful activity or is the subject of an assault.

3. Identification of Potentially Dangerous and Dangerous Animals; Appeals; Restrictions Pending Appeal.

A. The Chief Animal Control Officer shall have authority to determine whether any animal has engaged in the behaviors specified in subsection 2. This determination shall be based upon an investigation that includes a person's observation of the animal's upbringing and the owner's control of the animal. These observations and testimony can be provided by West Branch Animal Control Officers or by other witnesses who personally

observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony, if necessary, regarding the animal's behavior.

B. The Chief Animal Control Officer shall notify the owner or agent in control by certified mail or personal service of the animal's behavior and classification as a potentially dangerous or dangerous animal and of the additional restrictions applicable to that animal by reason of its classification. The owner may appeal the classification to the Animal Control Board. Such Board will be appointed by the Mayor and be comprised of three (3) members: a veterinarian, a member of the City Council, and a member of the Animal Control Advisory Commission. The City Attorney, or a representative of the City Attorney, shall be present at all meetings of the Board. The person who was attacked or the owner of the domestic animal attacked must be notified and may be present during this appeal process.

(Ord. 666 – Mar. 11 Supp. and Ord. 681 – Feb. 13 Supp.)

C. Once the owner has received notice of the animal's classification as a Level 1, 2, or 3 animal, the owner shall comply with the restrictions specified in the notice within seven days or be subject to penalties (Section 55.21). ***(Ord. 681 – Feb. 13 Supp.)***

D. If the Chief Animal Control Officer finds that an animal has engaged in Level 4 behavior, he or she shall order the owner or agent in control to immediately turn the animal over to the Animal Control Facility, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained until a hearing is held regarding the disposition of the animal. The owner shall notify the person who retains the animal of the pending hearing and shall notify the Chief Animal Control Officer as to where the animal is to be held. The expense of boarding, veterinary care, and retention of the animal is the obligation of the animal's owner. The animal shall not be returned to the owner until it has a current rabies vaccination and/or license as required by state law or this chapter.

E. The imposition of regulations pursuant to this section shall not prevent the Chief Animal Control Officer from also filing a complaint under any other applicable State law or ordinance.

4. Regulation of Potentially Dangerous and Dangerous Animals. In addition to the other requirements of this chapter the owner of a potentially dangerous animal shall comply with the following regulations:

A. If the animal has engaged in Level l behavior, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash. The Chief Animal Control Officer may adopt administrative rules establishing specifications for the required device or structure.

B. If the animal has engaged in Level 2 behavior, the owner shall confine the animal within a secure enclosure whenever the animal is not on a leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property. For the purpose of this section, electronic confinement systems are not considered secure enclosures. The Chief Animal Control Officer shall ascertain compliance to the secure enclosure provision.

C. If the animal has engaged in Level 3 behavior, the owner shall meet the requirements of subsection B of this section, and shall also post warning signs within 72 hours of being notified on the property where the animal is kept, by conformance with administrative rules to be adopted by the Chief Animal Control Officer, and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a person, or is within a securely fastened enclosed cage. ***(Ord. 681 – Feb. 13 Supp.)***

D. Any animal that has been found to have engaged in Level 4 behavior as described in subsection 2 shall be immediately impounded. The animal shall be euthanized unless the owner files a written request to the Chief Animal Control Officer within ten (l0) days that he or she wishes disposition of the animal to be decided by the District Court. Upon receiving said notice from owner or agent in control of the animal, the Chief Animal Control officer shall file a sworn complaint that an animal is a dangerous animal and that the animal has caused serious injury or death to a person, dog, or other domesticated animal with the District Court. The District Court shall issue summons to the owner ordering him or her to appear to show cause why the animal should not be destroyed and then proceed in accordance with Iowa Code. If the disposition of a Level 4 animal is to be decided by a District Court and the animal is returned to the owner, the ID number tattooing or microchip implanting must be completed within seven days after this decision is made. ***(Ord. 681 – Feb. 13 Supp.)***

E. To insure correct identification, all animals that have been classified as Level 3 shall have an identification number tattooed upon the animal, at the owner's expense, by or under the supervision of a licensed veterinarian within seven days after this decision is made. The identification number shall be tattooed on the upper inner left rear thigh of the animal by means of indelible or permanent ink. If the owner of an animal subject to a tattooing requirement under this chapter and the Chief Animal Control Officer agree, the animal may be identified by a micro-chip in lieu of tattooing. The micro-chip must be implanted by a licensed veterinarian. The cost of implanting the micro-chip and the cost of the micro-chip itself, shall be the responsibility of the animal's owner. ***(Ord. 681 – Feb. 13 Supp.)***

F. There shall be an annual fee payable to the City of West Branch to be paid by the owner of any animal that has been classified as dangerous or potentially dangerous. The fee shall be set by the West Branch City Council in the City of West Branch Schedule of Fees. For dogs and cats, this shall be an additional fee imposed at the time the license of the dog and cat expires, and shall be payable at the time the license is renewed.

(Ord. 666 – Mar. 11 Supp. and Ord. 681 – Feb. 13 Supp.)

5. Reporting of Potentially Dangerous or Dangerous Animals. Any person who observes or has evidence of animal behavior as described in subsection 2 shall forthwith notify the Animal Control Division.

55.17 IMPOUNDMENT AND REDEMPTION OF ANIMALS.

1. The City of West Branch shall designate an adequate facility as a shelter to receive, care for, and safely confine any animal in an Animal Control Officer's custody under provisions of this chapter or coming into the custody of said officer under State law. The shelter shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals.

2. An Animal Control Officer shall impound and hold at the shelter any animal when it is the subject of a violation of this chapter or State law, when it requires protective custody and care because of mistreatment or neglect by its owner, when it is voluntarily donated by its owner for disposition, or when otherwise ordered impounded by the court.

3. An animal shall be considered impounded from the time the Animal Control Facility takes physical custody of the animal.

4. Impoundment is subject to the following holding period and notice requirements:

A. An animal bearing identifications of ownership or whose ownership is otherwise known shall be held for a minimum of seven (7) days after its acquisition through impoundment or donation. The Animal Control Facility shall make reasonable efforts and document the same within 24 hours of impoundment by phone to give notice of the impoundment to the owner. If unsuccessful, the City of West Branch shall mail written notice by certified mail within forty-eight (48) hours of impoundment advising the owner of the impoundment, the date by which redemption must be made, and fees payable prior to redemption release.

B. An animal whose ownership is not determinable shall be held for a minimum of four (4) days after its impoundment. All cats whose ownership is not determinable shall be tested for feline leukemia and FIV. ***(Ord. 647 – Aug. 08 Supp.)***

C. Animals held for periods prescribed under this section and not redeemed by their owner shall be subject to disposition.

5. Disposition of animals shall be made in the following manner:

A. Any impounded animal shall be released to its owner or the owner's authorized representative if redeemed within the period set forth in this section, upon payment of fees for impoundment and care including actual cost of veterinary care incurred while held in the animal shelter and if the owner is in compliance with provisions of this chapter and statutes of the State including licensing and vaccination requirements.

B. Any animal held for the prescribed period and not redeemed by its owner, and which is neither a potentially dangerous animal nor in a dangerous condition of health, may be released for adoption subject to the provisions of subsection 6.

C. Any animal held for the periods prescribed under this section without redemption or adoption shall be disposed of only by euthanasia.

D. Provisions of this section regarding holding periods do not apply to any animal which is sick or injured to the extent that the holding period would cause the (West Branch Animal Control Study Committee page 9) animal undue suffering in the judgment of the Animal Control Facility, or to any animal voluntarily delivered to the animal shelter by the owner thereof requesting

humane destruction. Such animals may be disposed of by euthanasia at any time.

6. A dog or cat shall be released for adoption subject to the following conditions:

A. The adoptive owner shall pay the applicable adoption fee;

B. In the case of a dog or cat which is capable of sexual reproduction, the adoptive owner shall pay a surgical prepayment deposit which shall be refundable upon furnishing written certification by a licensed veterinarian that the animal has been rendered sexually incapable of reproducing by spaying or neutering; and

C. The adoptive owner shall sign a written contract agreeing to render any adopted dog or cat sexually incapable of reproducing within thirty (30) days of adoption or upon the animal attaining sexual maturity, whichever event last occurs. The contract shall include a statement that if the terms of the contract are reached because a person adopting a dog or cat fails to have the animal altered as required in the contract, then, the person agrees to pay liquidated damages of one hundred dollars ($100.00).

7. The Animal Control Facility shall decline to release an animal for adoption under any of the following circumstances:

A. The prospective adoptive owner has been convicted of the crime of cruelty to animals within the previous five (5) years;

B. The prospective adoptive owner has inadequate or inappropriate facilities for keeping the animal and providing proper care to it;

C. The existence of other circumstances which in the opinion of the Animal Control Facility would endanger the welfare of the animal or the health, safety, and welfare of people.

8. The Animal Control Facility, upon receiving any animal pursuant to this chapter, shall make a complete registration for such animal, entering the date, species, breed, color and sex of such animal and any tattoo number and whether licensed. If such animal is licensed, the impounding authority or personnel shall enter the name and address of the owner and the number of the license tag. The registry of impounded animals shall be available for public inspection during reasonable hours.

9. Non-owner citizens who deliver stray animals to the Animal Control Facility shall not be assessed a fee associated with the impounding, boarding, or necessary medical treatment, of said stray. Rather, any fees associated with the impounding, boarding, or necessary medical treatment shall be paid by the animal's owner, if ownership can be determined, and if it cannot, then said fees shall be paid by the City as agreed by contractual agreement between the City and the Animal Control Facility.

55.18 FEES. The following animal fees shall be set by resolution of the Council: boarding of impounded animals, owner reclamation of impounded animals, and adoption of impounded animals.

55.19 RELEASING OR MOLESTING ANIMALS. No person, except the owner of an animal or an authorized agent, shall willfully open any door or gate on any private or public premises for the purpose of enticing or enabling any such animal to leave such private or public premises, nor shall any person willfully molest, tease, provoke or mistreat an animal.

55.20 RESPONSIBILITY OF OWNER. The owner of an animal shall be responsible for obtaining vaccinations, licenses and permits and for the care and control of any such animal as defined in Section 55.07 of this chapter. The owner shall be prima facie responsible for any violation of Sections 55.08 through 55.14 of this chapter by any animal owned by said owner.

55.21 PENALTIES. Any violation of this chapter shall be considered a simple misdemeanor or municipal infraction as provided in Chapter 4 of this Code of Ordinances. The following schedule of civil penalties shall apply for violations punished as a municipal infraction in any 12-month period:

First offense:	$ 10.00
Second offense:	$ 20.00
Third offense:	$ 50.00
Fourth and subsequent offenses:	$100.00

All fines, forfeitures, penalties and fees collected as a result of the enforcement of this chapter shall be paid into the animal control fund.

55.22 LICENSING.

1. Fees. All fees required herein shall be set by resolution of the City Council.

2. Which Animals Require License. Every owner of a dog or cat over the age of four (4) months shall procure a City animal license each calendar year or within thirty (30) days of the animal being brought into the City. ***(Ord. 647 – Aug. 08 Supp.)***

3. Certification Of Vaccination; Payment Of License Fee; Issuance Of License.

A. At the time of making application for a City license, the owner shall furnish to the City a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated against rabies virus and that such vaccination will not expire within six (6) months from the date the license is issued. In order to take advantage of the lower rate for neutered animals, the owner shall, at the time application is made for an animal license, present a certificate of neutering signed by a veterinarian containing a description of the animal, its call name and date of neutering, if known. Such certificate may be used in subsequent license applications. ***(Ord. 647 – Aug. 08 Supp.)***

B. Upon payment of the license fee, the City shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the animal. The City shall keep a duplicate of each license issued as a public record. If the animal to be licensed is a guard/attack dog, the owner shall include such fact on the license application.

4. Animals Too Young For Licensing. The owner of an animal which is no longer with its dam, but which is too young to be licensed, shall be issued a temporary City animal ID tag upon application to the City and payment of the regular fee. Such temporary tag shall automatically expire five (5) months from the date of birth of the animal.

5. License Tag.

A. Upon issuance of the license, the City shall deliver or mail to the owner a license tag stamped with the following:

(1) Year in which issued.

(2) Name of issuing City.

(3) Number of the license.

B. A new tag shall be issued yearly for the life of the animal. ***(Ord. 604 – Dec. 05 Supp.)***

C. Every animal shall wear the tag provided whenever such animal is off the property of its owner or not within a motor

vehicle. Any method may be used to attach the tag to the animal, such as a collar or other suitable device.

D. It is unlawful for any person who is not the owner or the agent of such owner or an employee of the City or its agent acting in an official capacity to remove a license tag from an animal prior to the expiration of the license.

E. Upon the filing of an affidavit that the license has been lost or destroyed, the owner may obtain another tag upon payment of a replacement fee. (West Branch Animal Control Study Committee Page 11)

6. Delinquent Fees. Delinquent license fees, as determined by the City Council, shall be assessed in addition to the annual license fee except in those cases where, by reason of residence outside the corporate limits, age or ownership, the dog or cat was not subject to licensing. In those cases in which an animal becomes subject to the terms of this section during any license year, the license fee shall become due and payable within thirty (30) days after the date that such animal becomes subject to the terms of this chapter. After thirty (30) days, the owner shall pay the delinquent license fee provided by City Council resolution, in addition to the annual license fee. ***(Ord. 647 – Aug. 08 Supp.)***

7. Expiration Date. All licenses expire one year from the date of issuance except in cases where licenses are issued consecutively for two (2) or three (3) years. In those cases, licenses will expire two (2) or three (3) years from the date of issuance.

8. Change Of Ownership; Transfer Of License. When the permanent ownership of an animal is transferred, the new owner shall, within thirty (30) calendar days from the date of change of ownership, make application for a new license as provided in this section regardless of whether or not the animal was previously licensed.

9. Exceptions. The licensing provisions of this chapter shall not be applied to animals whose owners are nonresidents temporarily within the City or animals brought into the City for the purpose of participating in any animal show. Owners of animals which are trained to assist them with their disabilities shall not be charged a fee to license said animals, although said animals are still otherwise subject to the licensing provisions of this chapter.

(Ch. 55 – Ord. 558 - Mar. 03 Supp.)

[The next page is 301]

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 "West Branch Traffic Code."

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

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

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

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

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

6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273 & 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. Permit Required. No parade shall be conducted without first obtaining a written permit from the City Administrator/Clerk. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Police Chief 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 Police Chief shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

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

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

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

(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.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Funeral Processions
62.07 Tampering with Vehicle
62.08 Open Container of Alcoholic Beverage, Wine or Beer on Streets and Highways
62.09 Obstructing View at Intersections
62.10 Reckless Driving
62.11 Careless Driving
62.12 Milling

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 321.20B — Proof of security against liability.

2. Section 321.32 — Registration card, carried and exhibited.

3. Section 321.37 — Display of plates.

4. Section 321.38 — Plates, method of attaching, imitations prohibited.

5. Section 321.79 — Intent to injure.

6. Section 321.98 — Operation without registration.

7. Section 321.174 — Operators licensed.

8. Section 321.174A — Operation of motor vehicles with expired license.

9. Section 321.180 — Instruction permits.

10. Section 321.180B — Graduated driver's licenses for persons aged fourteen through seventeen.

11. Section 321.193 — Restricted licenses.

12. Section 321.194 — Special minor's licenses.

13. Section 321.216 — Unlawful use of license and nonoperator's identification card.

14. Section 321.216B — Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

15. Section 321.219 — Permitting unauthorized minor to drive.

16. Section 321.220 — Permitting unauthorized person to drive.

17. Section 321.221 — Employing unlicensed chauffeur.

18. Section 321.222 — Renting motor vehicle to another.

19. Section 321.223 — License inspected.

20. Section 321.224 — Record kept.

21. Section 321.232 — Radar jamming devices; penalty.

22. Section 321.234A — All-terrain vehicles.

23. Section 321.247 — Golf cart operation on City streets.

24. Section 321.259 — Unauthorized signs, signals or markings.

25. Section 321.262 — Damage to vehicle.

26. Section 321.263 — Information and aid.

27. Section 321.264 — Striking unattended vehicle.

28. Section 321.265 — Striking fixtures upon a highway.

29. Section 321.275 — Operation of motorcycles and motorized bicycles.

30. Section 321.278 — Drag racing prohibited.

31. Section 321.288 — Control of vehicle; reduced speed.

32. Section 321.295 — Limitation on bridge or elevated structures.

33. Section 321.297 — Driving on right-hand side of roadways; exceptions.

34. Section 321.298 — Meeting and turning to right.

35. Section 321.299 — Overtaking a vehicle.

36. Section 321.302 — Overtaking on the right.

37. Section 321.303 — Limitations on overtaking on the left.

38. Section 321.304 — Prohibited passing.

39. Section 321.307 — Following too closely.

40. Section 321.308 — Motor trucks and towed vehicles; distance requirements.

41. Section 321.309 — Towing; convoys; drawbars.

42. Section 321.310 — Towing four-wheel trailers.

43. Section 321.312 — Turning on curve or crest of grade.

44. Section 321.313 — Starting parked vehicle.

45. Section 321.314 — When signal required.

46. Section 321.315 — Signal continuous.

47. Section 321.316 — Stopping.

48. Section 321.317 — Signals by hand and arm or signal device.

49. Section 321.319 — Entering intersections from different highways.

50. Section 321.320 — Left turns; yielding.

51. Section 321.321 — Entering through highways.

52. Section 321.322 — Vehicles entering stop or yield intersection.

53. Section 321.323 — Moving vehicle backward on highway.

54. Section 321.324 — Operation on approach of emergency vehicles.

55. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.

56. Section 321.330 — Use of crosswalks.

57. Section 321.332 — White canes restricted to blind persons.

58. Section 321.333 — Duty of drivers.

59. Section 321.340 — Driving through safety zone.

60. Section 321.341 — Obedience to signal of train.

61. Section 321.342 — Stop at certain railroad crossings; posting warning.

62. Section 321.343 — Certain vehicles must stop.

63. Section 321.344 — Heavy equipment at crossing.

64. Section 321.354 — Stopping on traveled way.

65. Section 321.359 — Moving other vehicle.

66. Section 321.362 — Unattended motor vehicle.

67. Section 321.363 — Obstruction to driver’s view.

68. Section 321.364 — Preventing contamination of food by hazardous material.

69. Section 321.365 — Coasting prohibited.

70. Section 321.367 — Following fire apparatus.

71. Section 321.368 — Crossing fire hose.

72. Section 321.369 — Putting debris on highway.

73. Section 321.370 — Removing injurious material.

74. Section 321.371 — Clearing up wrecks.

75. Section 321.372 — School buses.

76. Section 321.381 — Movement of unsafe or improperly equipped vehicles.

77. Section 321.382 — Upgrade pulls; minimum speed.

78. Section 321.383 — Exceptions; slow vehicles identified.

79. Section 321.384 — When lighted lamps required.

80. Section 321.385 — Head lamps on motor vehicles.

81. Section 321.386 — Head lamps on motorcycles and motorized bicycles.

82. Section 321.387 — Rear lamps.

83. Section 321.388 — Illuminating plates.

84. Section 321.389 — Reflector requirement.

85. Section 321.390 — Reflector requirements.

86. Section 321.392 — Clearance and identification lights.

87. Section 321.393 — Color and mounting.

88. Section 321.394 — Lamp or flag on projecting load.

89. Section 321.395 — Lamps on parked vehicles.

90. Section 321.398 — Lamps on other vehicles and equipment.

91. Section 321.402 — Spot lamps.

92. Section 321.403 — Auxiliary driving lamps.

93. Section 321.404 — Signal lamps and signal devices.

94. Section 321.405 — Self-illumination.

95. Section 321.406 — Cowl lamps.

96. Section 321.408 — Back-up lamps.

97. Section 321.409 — Mandatory lighting equipment.

98. Section 321.415 — Required usage of lighting devices.

99. Section 321.417 — Single-beam road-lighting equipment.

100. Section 321.418 — Alternate road-lighting equipment.

101. Section 321.419 — Number of driving lamps required or permitted.

102. Section 321.420 — Number of lamps lighted.

103. Section 321.421 — Special restrictions on lamps.

104. Section 321.422 — Red light in front.

105. Section 321.423 — Flashing lights.

106. Section 321.430 — Brake, hitch and control requirements.

107. Section 321.431 — Performance ability.

108. Section 321.432 — Horns and warning devices.

109. Section 321.433 — Sirens, whistles and bells prohibited.

110. Section 321.434 — Bicycle sirens or whistles.

111. Section 321.436 — Mufflers, prevention of noise.

112. Section 321.437 — Mirrors.

113. Section 321.438 — Windshields and windows.

114. Section 321.439 — Windshield wipers.

115. Section 321.440 — Restrictions as to tire equipment.

116. Section 321.441 — Metal tires prohibited.

117. Section 321.442 — Projections on wheels.

118. Section 321.444 — Safety glass.

119. Section 321.445 — Safety belts and safety harnesses — use required.

120. Section 321.446 — Child restraint devices.

121. Section 321.449 — Motor carrier safety regulations.

122. Section 321.450 — Hazardous materials transportation.

123. Section 321.454 — Width of vehicles.

124. Section 321.455 — Projecting loads on passenger vehicles.

125. Section 321.456 — Height of vehicles; permits.

126. Section 321.457 — Maximum length.

127. Section 321.458 — Loading beyond front.

128. Section 321.460 — Spilling loads on highways.
129. Section 321.461 — Trailers and towed vehicles.
130. Section 321.462 — Drawbars and safety chains.
131. Section 321.463 — Maximum gross weight.
132. Section 321.465 — Weighing vehicles and removal of excess.
133. Section 321.466 — Increased loading capacity - reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

62.06 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic

rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

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

62.08 OPEN CONTAINER OF ALCOHOLIC BEVERAGE, WINE OR BEER ON STREETS AND HIGHWAYS. A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine or beer was found during an authorized search in the glove compartment, utility compartment, console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage, wine or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion.

(Code of Iowa, Sec. 321.284)

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

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

(Code of Iowa, Sec. 321.277)

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

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

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

CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots
63.04 Special Speed Restrictions
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.
   (Code of Iowa, Sec. 321.285 [1])
2. Residence or School District — Twenty-five (25) miles per hour.
   (Code of Iowa, Sec. 321.285 [2])
3. Suburban District — Forty-five (45) miles per hour.
   (Code of Iowa, Sec. 321.285 [4])

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

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

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

reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 10 MPH Speed Zones. A speed in excess of 10 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. In any alley.

B. ***(Repealed by Ordinance No. 704 – Feb. 13 Supp.)***

2. Special 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. In all school districts.

B. Poplar Street from Main Street to North Oliphant Street.

C. Main Street from Poplar Street to Foster Street. ***(Ord. 517 – Mar. 00 Supp.)***

3. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Parkside Drive from Cedar Street to Main Street.

B. Cedar Street from Parkside Drive to South Second Street.

C. Main Street from Thomas Drive to the west property line of 2nd Amended Plat Pedersen Valley Part Three. ***(Ord. 572 – Sep. 04 Supp.)***

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

A. Parkside Drive from Commercial Drive to Cedar Street.

B. Main Street from the west property line of 2nd Amended Plat Pedersen Valley Part Three to the Cedar/Johnson County line road. ***(Ord. 572 – Sep. 04 Supp.)***

C. 300th Street from the corner of Baker Avenue to east corporate limits.

D. Baker Avenue from the intersection of 300th Street north 1,450 feet to Commercial Drive. ***(Ord. 614 – Nov. 06 Supp.)***

E. Council Street from the intersection of Baker Avenue to east corporate limits. ***(Ord. 638 – Oct. 07 Supp.)***

5. Special 40 MPH Speed Zones. A speed in excess of 40 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. 280th Street from Baker Street to 400 feet east of North Fourth Street.

6. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Baker Avenue from the south City limits to the intersection of 300th Street. ***(Ord. 626 – Oct. 07 Supp.)***

7. Special 15 MPH Speed Zones. A speed in excess of 15 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Mobile home communities.

(Ord. 704 – Feb. 13 Supp.)

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 or the rider of a police bicycle when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public and the drivers thereof use an audible signaling device or a visual signaling device. This provision does not relieve the driver of an authorized emergency vehicle or the rider of a police bicycle from the duty to drive or ride with due regard for the safety of others.

(Code of Iowa, Sec. 321.231)

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CHAPTER 64

TURNING REGULATIONS

64.01 Authority to Mark
64.02 U-turns
64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

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

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

1. At Main Street intersections from the east line of Poplar Street to the east line of Second Street.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Moveable Stops
65.04 Stop Before Crossing Sidewalk
65.05 Stop When Traffic Is Obstructed
65.06 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Fourth Street from its intersection with Main Street to the north corporation line.

2. Main Street from the east corporation line to the west corporation line.

65.02 STOP REQUIRED. Every driver of a vehicle shall stop before entering an intersection as required herein:

(Code of Iowa, Sec. 321.345)

1. Cedar Street at its intersection with Second Street.

2. Cedar Street at its intersection with Parkside Drive.

3. Library Street at its intersection with Parkside Drive.

4. Water Street parking lot at its intersection with Parkside Drive.

5. Water Street parking lot at its intersection with Second Street.

6. Federal Office Building parking lot at its intersection with Parkside Drive.

7. Parkside Drive at its intersection with Main Street.

8. First Street at its intersection with College Street.

9. Second Street at its intersection with College Street.

10. Fifth Street at its intersection with College Street.

11. South Maple Street where the said street intersects Second Street.

12. Wetherell Street where the said street intersects Poplar Street.

13. Orange Street, College Street and Green Street where said streets intersect North Sixth Street.

14. Green Street on both the east and west approach to its intersection with North Fifth Street.

15. Northside Drive on both the east and west approach to its intersection with Oliphant Street.

16. Green View Drive at its intersection of County Line Road.

17. County Line Road at its intersection with Main Street.

18. Oliphant Street at its approach to its intersection with North Downey Street.

19. Green Street at its approach to its intersection with North Second Street.

20. Green Street at its approach to its intersection with North First Street.

21. Orange Street on the east approach to its intersection with North Maple Street.

22. Main Street on both the east and west approach to its intersection with First Street and Parkside Drive.

23. First Street at its intersection with Main Street.

24. Sagert Drive at its intersection with Thomas Drive.

25. Scott Drive at its intersection with Main Street.

26. The western-most entrance of Bickford Drive at its intersection with 350th Street in Johnson County.

27. North Fourth Street on both the north and south approach to its intersection with College Street.

28. The southbound lane of Cedar-Johnson County Road at the intersection of 350th Street in Johnson County.

29. The entrance to Northridge Drive at its intersection to North Fourth Street.

30. 350th Street at its intersection with Cedar-Johnson Road.

31. The eastern-most entrance of Bickford Drive at its intersection with 350th Street.

32. College Street at its intersection with North Downey Street.

33. At the intersection of Northridge Drive and the end of the one-way portion of Northridge Drive located on the northwest corner of Lot 1, Northridge Subdivision.

34. At the intersection of County Road X-30 and 300th Street.

35. Lancaster Lane at its intersection with East Orange Street.

36. North Fifth Street at its intersection with East Orange Street.

37. Pedersen Street at its intersection with West Main Street.

38. Northside Drive at its intersection with North Maple Street.

39. North Maple at its intersection with West Orange Street.

40. West Orange at its intersection with North Maple.

41. Orange Street on both the east and west approach to its intersection with Scott Drive. ***(Ord. 519 – Mar. 00 Supp.)***

42. Scott Drive on both the north and south approach to its intersection with Orange Street. ***(Ord. 519 – Mar. 00 Supp.)***

43. Crestview Drive at its intersection with Oliphant Street. ***(Ord. 560 – Mar. 03 Supp.)***

44. Pedersen Street at its intersection with West Orange Street.

45. Hilltop Drive at its intersection with West Orange Street.

46. Hilltop Drive at its intersection with Pedersen Street. ***(Subsections 44-46 – Ord. 586 – Jul. 05 Supp.)***

47. Sullivan Street at its intersection with Gilbert Drive.

48. Gilbert Drive at its intersection with West Orange Street.

49. Ohrt Street at its intersection with West Orange Street.

50. Greenview Drive at its intersection with West Orange Street.

51. Greenview Drive on both the north and south approach to its intersection with Sullivan Street.

52. Sullivan Street on both the east and west approach to its intersection with Greenview Drive. ***(Subsections 47-52 – Ord. 608 – Mar. 06 Supp.)***

53. Beranek Drive at its intersection with South Second Street. ***(Ord. 633 – Oct. 07 Supp.)***

54. Council Street at its intersection with County Road X-30. ***(Ord. 633 – Oct. 07 Supp.)***

55. The northbound lane of Oliphant Street at its intersection with Orange Street. ***(Ord. 699 – Feb. 13 Supp.)***

65.03 MOVEABLE STOPS. Folding stop signs will be provided for the intersections of Oliphant Street with West Main. This will replace the portable

stop signs and will be used as necessary. Moveable stop signs shall be provided for placement in front of Hoover School on Oliphant Street between the hours of 8:00 a.m. and 5:00 p.m. The stop will be required at Main Street and at Downey Street.

65.04 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)

65.05 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.

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

(Code of Iowa, Sec. 321.327)

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
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 Police Chief 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 City ordinance over those streets named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. Five-ton limit on Greenview Drive from Cedar/Johnson County Line Road to Cedar Johnson County Line Road.

2. Five-ton limit on North Fourth Street from north edge of Cargill to County Road.

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 Police Chief may cause to be posted and maintained signs on said bridge and at suitable distances ahead of

the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. South Downey Street from its intersection with Wetherell Street north to Main Street, with traffic flow from south to north.

2. Wetherell Street between Poplar and Downey Streets with traffic flow from west to east.

3. Poplar Street between Main Street and Wetherell Street with traffic flow from north to south.

4. That part of Northridge Drive from the north lot line of Lot 13 Northridge Subdivision, running south, then east and then north to the north property line of Lot 1 Northridge Subdivision.

5. The driveway area from West Orange Street near the water tower south into the West Branch Middle School parking lot.

6. The driveway area (North Maple Street) from the West Branch Middle School parking lot north to West Orange Street at its intersection with North Maple Street.

(Subsections 5 and 6 Added by Ord. 700 – Feb. 13 Supp.)

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb – One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Overnight Parking
69.10 Two Hour Parking Zones
69.11 Thirty Minute Parking Stalls
69.12 Fifteen Minute Parking Stalls
69.13 Loading Zones
69.14 School Loading and Unloading Zones
69.15 Towing of Vehicle Illegally Parked on Private Property
69.16 Snow Removal
69.17 Motorcycle Parking

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. East Main Street on the north side from North First to North Downey;

2. West Main Street on both sides from North Downey to Poplar Street;

3. North Downey Street on the east side from Main Street to East Green Street. ***(Ord. 597 – Dec. 05 Supp.)***

4. North First Street on the east side from Main Street to Town Hall alley;

5. Poplar Street on the west side from Main Street to Wetherell Street.

6. East Green Street on the south side between North First Street and North Downey Street. ***(Ord. 594 – Sep. 05 Supp.)***

7. East Green Street on the north side between North First Street and North Downey Street. ***(Ord. 596 – Sep. 05 Supp.)***

8. The east side of North Downey Street from its intersection with the north side of East Green Street to a point 120 feet north.
(Ord. 601 – Dec. 05 Supp.)

9. The north side of West Orange Street from its intersection with the east side of North Maple Street to a point 168 feet east.
(Ord. 602 – Dec. 05 Supp.)

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway. No vehicle shall be backed into a space when angle parking.
(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than twenty-four (24) hours or for any of the following principal purposes:
(Code of Iowa, Sec. 321.236 [1])

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358 [5])

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or

when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons

with disabilities parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one persons with disabilities parking space.

(Code of Iowa, Sec. 321L.5[3a])

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

(Code of Iowa, Sec. 321L.5[3b])

C. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

(Code of Iowa, Sec. 321L.5[3c])

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PERSONS WITH DISABILITIES PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	†
1001 and over	‡
† Two percent (2%) of total ‡ Twenty (20) spaces plus one for each 100 over 1000	

(Code of Iowa, Sec. 321L.5[3d])

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors' parking area in accordance with the table contained in subsection (1)(D) of this section.

(IAC, 661-18.7[321L])

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as persons with disabilities parking spaces.

(Code of Iowa, Sec. 321L.5[4a])

4. Other Spaces. Any other person may set aside persons with disabilities parking spaces on the person's property provided each parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

(Code of Iowa, Sec. 321L.5[3e])

5. 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 motor vehicle not displaying a persons with disabilities parking permit;

B. Use by an operator of a motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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

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

1. The south side of Orange Street from Fourth to Sixth Streets;

2. The east side of Fourth Street from Main to the north City limits, and on the west side of Fourth Street except in the following instances:

   A. The west side of Fourth Street from the north curb line of Main Street to a point north approximately 120 feet;

   B. The west side of Fourth Street from the south curb line of the intersection of College and Fourth Street to a point approximately 260 feet to the south, between the hours of 5:00 p.m. and 8:00 a.m.; ***(Ord. 642 – Aug. 08 Supp.)***

   C. The west side of Fourth Street from a point 115 feet to the north of the north curb line of the intersection of College and Fourth Street to the intersection of Fourth Street and Orange Street.

3. The west side of Downey Street from the south line of Friends Church property, north to the north City limits, except that the west side parking will be permitted between the hours of 7:00 a.m. and 12:00 noon on Sunday.

4. The east side of Second Street from Main Street to Water Street.

5. The west side of Second Street from a point 100 feet south of the bridge to the south end of the street.

6. Both sides of South Downey Street from the south City limits, north to Water Street.

7. The west side of South Downey Street from Water Street north to its intersection with Wetherell Street.

8. The south side of Northside Drive from its intersection with North Downey Street if extended to Oliphant Street.

9. The south side of West Orange Street from its intersection with Downey Street west to the end of the street.

10. The east side of Oliphant Street from its intersection with Main Street north to the south line of the West Branch Community School District property.

11. The east side of Oliphant Street from its intersection with Orange Street to a point 150 feet south.

12. Both sides of Oliphant Street from Main Street north to the intersection of Orange Street from 12:00 a.m. to 6:00 a.m.

13. Both sides of Oliphant Street from Main Street to the football field.

14. The east side of South Poplar Street from its intersection with Main Street south to the end of the street.

15. The north side of Main Street from its intersection with Poplar Street west to Oliphant Street.

16. Both sides of West Main Street from Oliphant Street west to the City limits.

17. Both sides of East Main Street from the intersection with Fourth Street east to the City limits.

18. The west side of Poplar Street where it intersects with West Main Street to Wetherell Street.

19. The west side of Fifth Street from its intersection with Main Street north to its intersection with Orange Street.

20. The west side of Second Street from Main Street to College Street.

21. The south side of Cedar Street from the corner of Second Street South and Cedar Street, 56 feet to the west. Parking is allowed on the balance of the south side of the street.

22. The south side of Cookson Drive.

23. The west side of Fifth Street.

24. The west side of Sixth Street.

25. The south side of East Orange Street.

26. The south side of College Street that lies east of the C R I & P Railway right-of-way.

27. The south side of Green Street that lies east of the C R I & P Railway right-of-way.

28. The north side of College Street that lies west of the C R I & P Railway right-of-way.

29. The east side of North First Street that lies north of Green Street.

30. The south side of Wetherell Street.

31. The south side of West Main Street at its intersection with the west line of Oliphant Street extending east 180 feet. ***(Ord. 550 – Jun. 02 Supp.)***

32. The west side of Foster Street.

33. The west side of Thomas Drive.

34. The west side of North Maple Street from its intersection with West Orange Street north to the cemetery entrance.

35. The south side of Northside Drive from Oliphant Street to Maple Street.

36. The west side of Oliphant Street that lies north of West Orange Street.

37. ***(Deleted by Ordinance No. 550 – Jun. 02 Supp.)***

38. The south side of Water Street.

39. Both sides of Cookson Drive.

40. The east side of South Fourth from its intersection with Maple Street to Cookson Drive.

41. The north side of Cedar Street.

42. Both sides of North Poplar from its intersection with Main Street to the school property line.

43. Both sides of North Maple from its intersection with Orange Street to the school property line.

44. The north side of Cookson Drive from its intersection with First Street to Second Street.

45. Both sides of Parkside Drive.

46. The south side of Wetherell Street between Poplar and Downey.

47. On the north side of Wetherell Street from Poplar Street to Downey from 2:00 a.m. to 6:00 a.m.

48. The east side of North Downey from where Orange Street intersects with said North Downey, to the City limits.

49. Both sides of Thomas Drive from Main Street to the north curb line of Sagert Drive.

50. South of the gazebo on South Downey Street.

51. The west side of Sagert Drive.

52. The east side of Scott Drive. ***(Ord. 515 – Sep. 99 Supp.)***

53. The outer edge of Bickford Drive.

54. Both sides of 300th Street.

55. Both sides of the two-way traffic street and the inside edge of the one-way street of Northridge Drive.

56. Beginning at a point 70 feet west of the east property line to a point ending 48 feet north of the south property line on the street side of Lot 39 of Northside 3rd Addition. ***(Ord. 510 – Sep. 99 Supp.)***

57. West side of Pedersen Street from its intersection with West Main Street to its intersection with Hilltop Drive and the east side of Pedersen Street from its intersection with West Main Street to a point 70 feet north. ***(Ord. 605 – Mar. 06 Supp.)***

58. The west side of Pedersen Street from its intersection with Hilltop Drive to its intersection with West Orange Street.

59. The south and west sides of Hilltop Drive from its intersection with Pedersen Street to its intersection with West Orange Street.
(Subsections 57-59 – Ord. 587 – Jul. 05 Supp.)

60. Either side of Baker Avenue in corporate City limits from Interstate 80 to south corporate City limits. ***(Ord. 609 – Mar. 06 Supp.)***

61. The south side of Sullivan Street from its intersection with Gilbert Drive west to the end of the street. ***(Ord. 624 – Oct. 07 Supp.)***

62. The west side of Gilbert Drive from its intersection with Orange Street north to the end of the street. ***(Ord. 624 – Oct. 07 Supp.)***

63. The west side of Greenview Drive from its intersection with Orange Street to the end of the street. ***(Ord. 624 – Oct. 07 Supp.)***

64. Both sides of Council Street. ***(Ord. 637 – Oct. 07 Supp.)***

65. The east side of Oliphant Street from the intersection with Orange Street extending north 125 feet. ***(Ord. 684 – Feb. 13 Supp.)***

69.09 OVERNIGHT PARKING. Parking is prohibited between the hours of 2:00 a.m. and 6:00 a.m. on the following:

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

1. North side of Wetherell Street from Poplar Street to Downey Street.

2. Water Street parking lot.

3. Federal Office Building parking lot.

4. North and South Downey Street from its intersection with Wetherell Street to its intersection with Green Street.

5. Both sides of Main Street from Poplar Street to Fourth Street.

6. The driveway area from West Orange Street near the water tower south into the West Branch Middle School. ***(Ord. 702 – Feb. 13 Supp.)***

69.10 TWO HOUR PARKING ZONES. Parking on the following streets is restricted to two hours between the hours of 9:00 a.m. and 5:00 p.m. daily except Sundays and legal holidays.

1. Both sides of West Main Street from its intersection with Poplar Street east to Downey Street.

2. The south side of Main Street from Poplar Street west to Oliphant Street intersection.

3. The north side of West Main Street from Downey Street east to First Street.

4. The south side of East Main Street from the intersection with Downey Street east to the east line of the property described as 104 East Main Street.

5. The east side of South Downey Street from Main Street south to the south line of property described as 105 South Downey Street.

6. The east side of North Downey Street from Main Street north to the south line of the property described as 117 North Downey Street.

7. The west side of North Downey Street from Main Street north to a point due west of the southwest corner of the property described as 117 North Downey Street.

8. The off-street parking lot located west of the public alley sometimes referred to as the "School Alley," except for such parking stalls as have been leased from the City on a monthly basis and are identified with the lessees' names.

69.11 THIRTY MINUTE PARKING STALLS. There shall be established thirty-minute parking stalls in the following blocks:

1. North side of Main Street between Downey Street and Poplar Street.

2. South side of Main Street between Downey Street and Poplar Street.

3. East side of Downey Street between Main Street and north line of Wetherell Street, if extended east.

4. East side of Downey Street between Main Street and the north line of Lot 2, Block 34 of the City.

5. North side of Main Street between Downey Street and First Street.

69.12 FIFTEEN MINUTE PARKING STALLS. There shall be established fifteen-minute parking stalls in the following locations:

1. On the east side of South Second Street, 120 feet to the south of the Bridge, approximately 60 feet in length.

(Code of Iowa, 321.236[1])

69.13 LOADING ZONES. The following portions of streets shall be designated as twenty-minute loading zones for delivery vehicles only from 7:30 a.m. to 5:30 p.m., Monday through Friday:

1. Downey Street. On the west side of Downey Street commencing at a point 207 feet north of the north line of the crosswalk immediately north of the Main Street/Downey Street intersection, thence north 50 feet. ***(Ord. 595– Sep. 05 Supp.)***

2. Poplar Street. On the east side of Poplar Street commencing on the north line of the sidewalk immediately north of the Main Street/Poplar Street intersection thence north 50 feet.

3. Wetherell Street. On the north side of Wetherell Street commencing at a point 20 feet west of the west line of the crosswalk which runs from Heritage Square to the National Park Service property, thence west 50 feet.

69.14 SCHOOL LOADING AND UNLOADING ZONES. The following portions of streets shall be designated as twenty-minute school loading and unloading zones:

1. On the west side of Oliphant Street from its intersection with Orange Street, south a distance of 150 feet.

69.15 TOWING OF VEHICLE ILLEGALLY PARKED ON PRIVATE PROPERTY. It is illegal to park a motor vehicle on real property without the consent of the owner or person in possession of such property, or the agent of either. Any motor vehicle parked in violation of this section may be ticketed and/or removed pursuant to the following procedure. The Police Department is hereby authorized to act as an agent of any owner or other lawful possessor of real property to remove or cause to be removed pursuant to State law any motor

vehicle that has been parked or placed on real property without the consent of the owner or person in lawful possession of such property, or the agent of either. However, prior to the removal of any motor vehicle, the owner, lawful possessor or the agent of either shall in writing authorize the police to act as agent and shall release, defend, indemnify and hold harmless the City, its officers, employees and agents from any damages, claim of damages, or liability resulting from the removal. The owner of such motor vehicle may reclaim such vehicle pursuant to State law.

69.16 SNOW REMOVAL. The Public Works Director or City Administrator is authorized to declare a snow event, as defined in the City's snow and ice control policy, that will cause enactment of these snow parking restrictions. During a designated snow event, no vehicle shall be parked in or on any part of the public street or right-of-way of a public street during snow removal operations, or before such operations have removed or cleared accumulated snow or ice from the street to each curb or shoulder edge. The registered owner of a vehicle parked in violation of this section shall be subject to Sections 70.03 and 70.06 of this West Branch Code of Ordinances.

(Ord. 584 – Jul. 05 Supp.)

69.17 MOTORCYCLE PARKING. Only motorcycle parking is permitted in the following locations:

1. West end of the 100 block of W. Main Street on the south side of the street adjacent to the last angled vehicle parking stall, west to the pedestrian crosswalk.

(Ord. 618 – Nov. 06 Supp.)

EDITOR'S NOTE

See Section 165.38 of this Code of Ordinances for additional provisions concerning off-street parking requirements.

[The next page is 375]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine of payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars ($15.00) for all violations except improper use of a persons with disabilities parking. The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

(Ord. 607 – Mar. 06 Supp.)

(Code of Iowa, Sec. 321.236 [1a] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

4. Parked Over Twenty-four Hour Period. When any vehicle is left parked for a continuous period of twenty-four (24) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Places of Operation
75.05 Negligence
75.06 Accident Reports

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

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV or snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or 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)

75.04 PLACES OF OPERATION. The operators of ATV's and snowmobiles shall comply with the following restrictions as to where ATV's and snowmobiles may be operated within the City:

1. Streets. ATV's and snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

2. Exceptions. ATV's and snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. ATV's and 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. ATV's and snowmobiles may make a direct crossing of a prohibited street provided:

(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 ATV or snowmobile is brought to a complete stop before crossing the street;

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

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

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

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

(Code of Iowa, Sec. 321G.13[8])

4. Trails. ATV's shall not be operated on snowmobile trails and snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

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

5. Parks and Other City Land. ATV's and snowmobiles shall not be operated in any park, playground or upon any other City-owned property

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

6. Sidewalk or Parking. ATV's and 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.

75.05 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile.

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

75.06 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars ($200.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with State law.

(Code of Iowa, Sec. 321G.10)

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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 and skateboards on sidewalks:

1. Business District. No person shall ride a bicycle or skateboard 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 and skateboards 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 or skateboard 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.

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.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Extension of Time
80.06 Fees for Impoundment
80.07 Disposal of Abandoned Vehicles
80.08 Disposal of Totally Inoperable Vehicles
80.09 Proceeds from Sales
80.10 Duties of Demolisher

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

1. "Abandoned vehicle" means any of the following:
(Code of Iowa, Sec. 321.89[1b])

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

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

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

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

80.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes

the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) 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 (10) day reclaiming period.

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

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

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

80.05 EXTENSION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtain an additional five (5) days within which the motor vehicle or personal property may be reclaimed.

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

80.06 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay three dollars ($3.00) 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])

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

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

80.08 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions
90.02 Superintendent's Duties
90.03 Mandatory Connections
90.04 Abandoned Connections
90.05 Permit
90.06 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
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90.14 Curb Valve
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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
90.20 Water Shortages
90.21 Public Drinking Fountains

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public water main of the City, is hereby required at the owner's expense to install suitable water connections therein, and to connect such facilities directly with the proper public water in accordance with the provisions of this chapter ninety (90) days after date of official notice to do so, provided that said public water main is within 200 feet of the property line.

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 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 the following fee for permit to the Superintendent: $331.00 effective July 1, 2012; $348.00 effective July 1, 2013; $365.00 effective July 1, 2014; $383.00 effective July 1, 2015; $402.00 effective July 1, 2016. ***(Ord. 686 – Feb. 13 Supp.)***

(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.

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:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint 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.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the

Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

(Ord. 530 – Sep. 00 Supp.)

90.13 FAILURE TO MAINTAIN. If it is determined by the Superintendent that the interior valve or curb valve is inoperable, broken or non-existing, the property owner shall be notified in writing and shall be given 10 days to make the repairs. If said repairs are not made, the City will make the repairs or hire a contractor to make the repairs and the cost will be billed to the property owner. Any leak or fracture of the service pipe shall be promptly repaired by the owner and if not so repaired by the owner within 24 hours after written notification by the City to repair the same, the City may shut off the water if the break occurs between the curb valve and the meter until the repairs have been made, or if the break occurs in the service pipe between the curb valve and the water main and the owner fails or refuses to repair, the City may institute repairs and charge the cost of such repairs to the owner to be paid by the owner before the water service to the owner's premises shall be resumed. The City shall in no event be liable for interruption of water service into any service pipe unless damage to said service pipe was occasioned by the City, its employees or persons or connections employed by the City. The City reserves the right to cut off the supply of water for purposes of making repairs to water mains to make connections for extensions, or for any other purpose that may be deemed necessary. ***(Ord. 574 – Sep. 04 Supp.)***

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 Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, 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.

90.20 WATER SHORTAGES. The use of hose for sprinkling yards, gardens and streets or for washing windows and sidewalks is prohibited in case of fire or when there is an alarm of fire; and in case of an emergency or threatened shortage of water, the uses of water for the above or other similar uses may be prohibited by the Superintendent.

90.21 PUBLIC DRINKING FOUNTAINS. No hydrant or fountain, except public drinking fountains, shall be placed within the limits of any street unless the hydrant or drinking fountain is securely closed and protected against general use. No drinking fountain shall be erected for public use which has openings by which it can be used as a source of domestic supply.

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 Fee for Water Meters
91.07 Meter Repairs
91.08 Right of Entry
91.09 Defective Meters
91.10 Testing of Meters
91.11 Second Water Meter

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

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

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

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

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

91.06 FEE FOR WATER METERS. The full cost of the meter and automated meter reading equipment that is prescribed by the Superintendent will be paid for by all new water customers. The automated meter reading equipment that will be added to existing customers will be paid for by the City. The Superintendent will add automated meter reading equipment to existing customers at his or her discretion. ***(Ord. 703 – Feb. 13 Supp.)***

91.07 METER REPAIRS. Whenever a water meter or automated meter reading equipment is found to be out of order the Superintendent shall have it

repaired or replaced at the cost of the City. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

(Ord. 703 – Feb. 13 Supp.)

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

91.09 DEFECTIVE METERS. Should a meter get out of order or repair or fail to register properly, the customer will be charged with the average quarterly consumption as shown by the meter, when in order, for the two quarterly periods previous thereto or any fraction thereof if the same has not been used that long.

91.10 TESTING OF METERS. Every property owner may require the meter to be tested by paying to the Superintendent the sum of fifty dollars ($50.00). The water meters shall be tested by the Superintendent or other competent person and should the meter register 5% or more over, the property owner shall be entitled to an adjustment of the water rates on the basis of the over registration of the water meter and have the $50.00 refunded. The billing clerk shall make an adjustment of the water rate.

91.11 SECOND WATER METER. Customers may, at their own expense, install a separate water meter to measure water used for gardens and lawns.

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 Temporary Vacancy
92.10 Water Deposits for Rental Property

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 rate of:

(Code of Iowa, Sec. 384.84)

$5.23 per 1,000 gallons, with a 1,700-gallon minimum, payable monthly effective July 1, 2012.

$5.87 per 1,000 gallons, with a 1,700-gallon minimum, payable monthly effective July 1, 2013.

$6.51 per 1,000 gallons, with a 1,700-gallon minimum, payable monthly effective July 1, 2014.

$7.15 per 1,000 gallons, with a 1,700-gallon minimum, payable monthly effective July 1, 2015.

$7.79 per 1,000 gallons, with a 1,700-gallon minimum, payable monthly effective July 1, 2016.

(Ord. 685 – Feb. 13 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at two times the rate provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters for Commercial/Industrial and Residential customers shall be read during the third week each month. ***(Ord. 562 – Feb. 04 Supp.)***

2. Bills Issued. The Billing Clerk shall prepare and issue bills for combined service accounts on or before the first day of the month.

3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the City Clerk by the twentieth (20^{th}) of that month. When the twentieth of the month falls on a Saturday or Sunday, the City Clerk's office shall accept payment on the next office day without penalty.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill. ***(Ord. 535 – Aug. 01 Supp.)***

5. Billing Corrections. Any error in the billing of the amount of usage or the rate billed for said usage shall be corrected by the Billing Clerk upon discovery and confirmation of said error. No other reductions shall be made to the amount of water in gallons billed or to the rate at which it is billed once the water has passed through the meter and is recorded. ***(Ord. 656 – May 09 Supp.)***

6. Insufficient Funds Charge. A service charge in the amount of $30.00 shall be assessed to any customer whose payment is not honored by the customer's financial institution for any reason when presented. The service charge shall be in addition to the late payment penalty. If two or more payments are dishonored within a twelve-month period, the City may require future payments in cash, cashiers check or money order. Such cash, cashiers check or money order payments shall be maintained until account has not been delinquent for twelve (12) consecutive months. ***(Ord. 640 – Aug. 08 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 billing clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the City Administrator 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 City Administrator's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of twenty dollars ($20.00) shall be charged before service is restored to a delinquent customer during working hours and a fee of fifty dollars ($50.00) shall be charged before service is restored during non-working hours. 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 residential rental properties where water service is separately metered and the charges therefor are paid directly by the tenant, providing the landlord has given written notice to the Clerk that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of occupancy and the date of occupancy. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the Clerk shall refund the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property.

(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. ***(Ord. 532 – Sep. 00 Supp.)***

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. Water service may be severed upon notice to the Superintendent or other authorized person whenever the premises is to be unoccupied, and if the premises is unoccupied for more than one month, a proportionate reduction on the minimum charge for water service will be allowed. There shall be a fifty dollar ($50.00) charge for after-hours disconnection and reconnection.

92.10 WATER DEPOSITS FOR RENTAL PROPERTY. A $100.00 deposit shall be paid by the tenant(s) of rental property when the tenant(s) establish(es) service. Upon disconnection of water service, the deposit, less deductions for any unpaid water usage, penalties and interest, shall be returned to the tenant, without interest. ***(Ord. 645 – Aug. 08 Supp.)***

CHAPTER 93

SEWER AND WATER MAIN EXTENSIONS

93.01 Application
93.02 Recommendation From City Engineer
93.03 Deposit of Estimated Costs
93.04 Subsequent Connections
93.05 Refund
93.06 Limitations
93.07 Separate Agreements
93.08 Inspection
93.09 Records

93.01 APPLICATION. The party or parties desiring extension of a sewer or water main must first make application to the City Engineer detailing the plans of the proposed extension.

93.02 RECOMMENDATION FROM CITY ENGINEER. A recommendation must be obtained from the City Engineer before any proposed extension of a sewer or water main is presented to the City for consideration.

93.03 DEPOSIT OF ESTIMATED COSTS. The party or parties desiring the extension of a sewer or water main shall, in advance, make a deposit in the office of the Clerk in the amount of that party's proportionate share of the cost of the extension as estimated by the City Engineer. Said cost shall include construction costs, the cost of obtaining easements, and the City's engineering costs. The proportionate share of each property owner will be the front footage of that party's lot divided into the total footage of extension main installed. If it is the desire of one or more, but not all, of the property owners of property adjacent to the main that said main be extended, then those desiring connection will pay in advance in the office of the Clerk an amount equal to the total cost of the installation as estimated by the City Engineer.

93.04 SUBSEQUENT CONNECTIONS. Each time an additional line service connection is made to the main extension to service property on which an advance deposit had not been paid by the property owner at the time the main was extended, the party making said connection will pay to the City said party's proportionate share of the cost of the original installation based on the proportion that the front footage of the lot making the connection bears to the total footage of the main installed.

93.05 REFUND. A refund of the amount paid to the City under the preceding paragraph will be made by the City to the original property owner or owners, their heirs or assigns, who deposited money in the Clerk's office, but only property owners who advanced money to pay for extensions extending past lots other than their own will receive any refunds from the money paid for later

connections. The right to refund shall expire, however, twenty years from the date the sewer or water main was installed.

93.06 LIMITATIONS. The City will have no obligations to make any extensions if funds required to be deposited are insufficient or are not deposited. In the event the advanced deposit exceeds the actual cost, the Clerk shall refund the excess to the property owner. In the event the advance deposit is insufficient, the property owner shall deposit an additional sum in the office of the Clerk to equal the actual cost of the installation.

93.07 SEPARATE AGREEMENTS. The developer may negotiate an agreement with other property owners relating to cost sharing. This agreement shall be written and a copy thereof provided to the Council.

93.08 INSPECTION. The City shall inspect the main during its construction and upon completion, and upon acceptance by the City, the City shall have full rights of ownership of said main.

93.09 RECORDS. The City Engineer shall maintain accurate records of water and sewer main extensions so that all pro rata charges will be recorded as paid or unpaid.

CHAPTER 94

WATER CONSERVATION

94.01 Water Shortages
94.02 Measures
94.03 Voluntary Water Warning
94.04 Involuntary Water Warning
94.05 Base Allocation
94.06 Water Appeal Board
94.07 Premium Rates
94.08 Premium Rate Charge
94.09 Reduction in Flow of Water to Any Person

94.01 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 there will not be sufficient supply of water to meet all customary and usual demands. Under these conditions, the Public Works Director or City Administrator may find, and proclaim, a public emergency for water conservation during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption until the Public Works Director or City Administrator finds and declares the water shortage condition to be ended.

94.02 MEASURES. The Public Works Director or City Administrator, by proclamation, may select from among the following water conservation measures: Voluntary Water Warning or Involuntary Water Warning.

94.03 VOLUNTARY WATER WARNING.

1. Under a Voluntary Water Warning there may be voluntary restrictions on potable processed water by the City.

A. Watering of established lawns, gardens, plants, trees or shrubs, including but not limited to a total ban on such watering, alternative day watering or of watering limited to, but not more than, a certain amount of watering within a certain specified period of time, or within a particular time frame. In connection, circumstances so permit, restrictions may also be varied as between lawns, gardens, plants, trees and shrubs and restrictions may be varied as between established lawns and plantings, as compared to new seeding or sod, or new plantings. The newly planted lawns, gardens, seedlings, sod and plantings may be exempt for a period of four (4) weeks.

B. Residential car washing.

C. Residential swimming pool filling.

D. Washing streets, driveways, parking lots and sidewalks.

E. Washing the outside of buildings.

F. Hydrant flushing.

G. Non-essential construction water usage.

H. Ornamental fountains.

I. Governmental/Public Entities non-essential water usage.

2. 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.

94.04 INVOLUNTARY WATER WARNING.

1. Under an Involuntary Water Warning there shall be mandatory restrictions and prohibitions imposed on the use of potable processed water by the City.

A. Established residential and commercial lawns.

B. Established gardens, plants, shrubs and trees.

C. Newly planted lawns, gardens, seedlings, sod and plantings.

D. Residential car washing.

E. Residential swimming pool filling, private swimming pools, kid's wading pools and any other indoor or outdoor pool of any kind.

F. Washing streets, driveways, parking lots and sidewalks.

G. Washing the outside of buildings.

H. Hydrant flushing.

I. Non-essential construction water usage.

J. Ornamental fountains.

K. Governmental/Public Entities non-essential water usage.

L. Tank load water sales by the City.

M. Temporary water rate surcharge may be imposed to curb usage.

2. 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.

3. Each customer shall be required to achieve a particular percentage of reduction in water usage in the event that the City enters into an Involuntary Water Warning as compared to a prior month usage and subject to the payment of a premium rate over and above the normal rate in the event such percentage of reduction is not achieved. The amount of percentage of reduction shall be established by resolution or proclamation as previously set forth in this chapter.

4. The Council only may set a base rate allocation for every customer of the City Water System. Any customer that exceeds the base rate allocation shall pay in addition to the regular rate for water, the premium rate for water set forth in this chapter for unrestrained water consumption.

94.05 BASE ALLOCATION. In the event the Council establishes a base rate allocation by resolution, any customer of the City Water System may file an appeal to the Water Appeals Board. The Water Appeals Board may grant an adjustment to the customer based on the following criteria:

1. For single-family residential use, the base allocation may be increased by 500 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; for example the average of the water bill during the previous winter (November thru April), production, service and occupancy data provided by the customer.

94.06 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 City Administrator and/or Public Works Director 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 Voluntary Water Warning and Involuntary Water Warning.

94.07 PREMIUM RATES. At such times as there may be restrictions on the consumption and usage of potable water supplied to the City water customers which if violated give rise to a premium rate, the premium rate shall be a twenty percent (20%) surcharge of the normal customer consumption rate in addition to the normal rate charged to the customer.

94.08 PREMIUM RATE CHARGE. Any water customer may file for adjustment of the premium rate charges for unrestrained water consumption with the City Administrator. The City Administrator may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. The cause of the high consumption must be mechanical in nature (broken pipes, leaking pipes or fixtures) rather than human carelessness and apparent disregard of this chapter.

2. The customer shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of an invoice plumbing company or a statement or materials receipt.

3. The adjustment may be granted only for the billing period prior to the correction of the failure.

4. For those customer that have been granted an adjustment of the premium rate charge, the minimum adjusted premium rate shall be a surcharge of twenty percent (20%) of the normal rate in addition to the normal rate charged to the customer.

94.09 REDUCTION IN FLOW OF WATER TO ANY CUSTOMER. The Public Works Director 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 Voluntary Water Warning or Involuntary Water Warning.

(Ch. 94 - Ord. 592 – Sep. 05 Supp.)

[The next page is 445]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Owner's Liability Limited
95.09 Use of Easements
95.10 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(IAC, 567-69.3[1])

3. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(IAC, 567-69.3[1])

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more

than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12 [3f])
(IAC, 567-69.3[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these

Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 OWNER'S LIABILITY LIMITED. While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

95.09 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding one hundred dollars ($100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

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

96.02 CONNECTION CHARGE. Before any permit is issued, the person who makes application shall pay the following fee for permit to the Superintendent: $331.00 effective July 1, 2012; $348.00 effective July 1, 2013; $365.00 effective July 1, 2014; $383.00 effective July 1, 2015; $402.00 effective July 1, 2016. ***(Ord. 687 –Feb. 13 Supp.)***

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

A. Recommended grade at one-fourth (¼) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe - A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe - A.S.T.M. A-74.

C. Ductile iron water pipe - A.W.W.A. C-151.

D. P.V.C. - SDR26 - A.S.T.M. D-3034

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without

basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the

building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges - Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of 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 with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3&4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Pursuant to Section 91.11, customers may install a separate meter to measure water which is not discharged into the sanitary sewer system. ***(Ord. 644 – Aug. 08 Supp.)***

Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

Equal to the current rate for service of water usage specified in Chapter 92 "WATER RATES" Section 92.02 "RATES FOR SERVICE" of this Code. ***(Ord. 665 – Mar. 11 Supp.)***

(Code of Iowa, Sec. 384.84)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of

Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

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

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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CHAPTER 100

WASTEWATER LIFT STATION CONNECTION FEE DISTRICT

100.01 Creation of District
100.02 District Description
100.03 Wastewater System Utility Connection Fee
100.04 Private Systems
100.05 Other Costs
100.06 Nonpayment
100.07 Use of Proceeds
100.08 Interpretation

100.01 CREATION OF DISTRICT. A Wastewater Lift Station Connection Fee District (the "District") is hereby established for the purpose of collection within said District of a fee from those property owners who shall make application to connect their properties to the Municipal Wastewater System of the City of West Branch.

100.02 DISTRICT DESCRIPTION. The areas and properties included within the District shall be the properties legally described as:

> All unconnected properties located within the corporate limits of the City of West Branch that are located north of Interstate 80.

100.03 WASTEWATER SYSTEM UTILITY CONNECTION FEE. A connection fee is hereby imposed for each connection made to the Municipal Water System Utility within the boundaries of the District which is legally described in Section 100.02 above. The proposed improvements are known as the "Wastewater Lift Station Connection Fee District" (hereinafter the "Project Improvements") and consist generally of the construction of a wastewater lift station to serve the properties within the City of West Branch located generally north of Interstate 80 which have yet to connect to the City's wastewater system. The Project Improvements will be constructed in one Project to be let by the City in accordance with Chapter 26 of the Code of Iowa. The Project Improvements will serve approximately INSERT NUMBER acres within said District. The Executive Summary provided by Veenstra & Kimm Engineers states that the total project costs are $750,000. The connection fee payable by a property owner whose property will be served by the Project Improvements will be calculated and imposed based upon the proposed use as listed on Exhibit "B" on file at City Hall. The connection fee will be payable in full at the earlier of (i) the time of submission by the property owner to the City of the subdivision plat for the area for signature and recording by the City, or (ii) the time of submission by the property owner to the City Engineer of construction plans for the construction of improvements on any portion of the owner's property to be served by the connection to the Public Improvements. For properties located

north of Interstate 80 currently located outside of the City limits, the connection fee will become due and payable in accordance with this chapter upon annexation and platting or connection to the wastewater system as provided above. As of June 1, 2011, the connection fee payable for each specific use is described on Exhibit "B" on file at City Hall. Said connection fee will be adjusted annually based upon the interest rate the City is paying for Series INSERT BOND NUMBER AND SERIES LETTER bonds to fund the Project Improvements. Said adjusted connection fee shall be kept on file for public inspection by the City Clerk.

100.04 PRIVATE SYSTEMS. Property owners within the District are not mandated to connect to the Wastewater System Utility if they currently have a properly operating private wastewater system. If a property owner's private wastewater system fails as determined by guidelines previously established by the City Engineer and the public wastewater system is located within 200 feet of said property, then the property owner will be required to connect to the City Water System.

100.05 OTHER COSTS. The connection fee imposed by this chapter is in addition to, and not in lieu of, any other fees for connection required under the other provisions of this Code of Ordinances. The property owner paying a connection fee will be responsible for the full cost of providing any necessary sanitary sewer main extensions or service lines from private property improvements or buildings to the public mains and extensions being constructed as part of the Public Improvements.

100.06 NONPAYMENT. In the event a connection is made to the Municipal Wastewater System without payment of the connection fee set forth in this chapter, the City shall disconnect such service until such times as the property owner has paid the required connection fee. In addition, the City may pursue any additional remedy provided by law.

100.07 USE OF PROCEEDS. The connection fees collected by the City under this chapter shall be used only for the purpose of operating the Municipal Wastewater System Utility, or paying the debt service on obligations issued to finance the Public Improvements.

100.08 INTERPRETATION. The provisions of this chapter are intended and shall be construed so as to fully implement the provisions of Section 384.84(3) of the Code of Iowa. In the event that any provision of this chapter is determined to be contrary to law, it shall not affect other provisions or application of this chapter which shall at all times be construed to fully invoke

the provisions of Section 384.84(3) of the Code of Iowa with reference to the assessment and collection of the connection fees provided herein.

(Chapter 100 – Ord. 680 – Feb. 13 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste and recyclable materials from public and private places.

2. "Director" means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

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

(IAC, 567-20.2[455B])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

9. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling.

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

(IAC, 567-20.2[455B])

12. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

13. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final

disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

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

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each homeowner 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, except for garbage as defined in this chapter which shall be for a period of more than fourteen (14) days, shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court. ***(Ord. 668 – Mar. 11 Supp.)***

(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. 1) No person shall allow, cause, permit or maintain any open burning of combustible material except for the purpose of outdoor cooking and grilling of food for human consumption. 2) The following shall also be permitted with a valid burn permit from the Fire Chief. ***(Ord. 524 – Sep. 00 Supp.)***

1. Ceremonial or Controlled Bonfires. Ceremonial or controlled bonfires may be permitted.

2. Disaster Rubbish. The open burning of rubbish, including landscape waste, may be permitted for the duration of the disaster, in cases where an officially declared emergency exists.

3. Prescribed Agricultural Burns. The open burning of fields may be permitted if necessary for the maintenance of native prairie grass.

4. Training Fires. Fires set for the purpose of bona fide instruction and training of public, institutional or industrial employees in the methods of fire fighting.

5. Campfires. Open burning of campfires is permitted as long as the burning is performed in an approved container constructed of steel, brick or masonry. ***(Ord. 524 – Sep. 00 Supp.)***

6. Variance. A variance may be obtained by any persons wishing to conduct any other open burning. The variance must be submitted in written form and directed to the Council and Fire Chief for approval. The City is exempt from the provisions of this section and shall work in cooperation with the Fire Department.

(Ord. 520 – Sep. 00 Supp.)

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or hauled to the City wood pile. Leaves shall be placed in biodegradable plastic bags and set out at curbside for collection by the City, or burned on the premises. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics,

pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)
(IAC, 567-102.14[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not more than thirty (30) gallons in nominal capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed thirty (30) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

(1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;

(2) Have handles, bails or other suitable lifting devices or features;

(3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;

(4) Be of lightweight and sturdy construction.

Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers

shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall be so placed no earlier than 6:00 p.m. the day before collection and must be removed the same day of collection.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Cedar County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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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 Fees

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste and recyclable material, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 FEES. Each bag of solid waste set out for collection and disposal shall have a sticker purchased at a cost set by the contractor.

CHAPTER 107

MANDATORY RECYCLING

107.01 Definitions
107.02 Separation of Recyclable Materials
107.03 Disposition of Recyclables
107.04 Containers for Collection
107.05 Preparation and Placement of Recyclable Materials for Collection
107.06 Refusal of Service
107.07 Collection by Unauthorized Persons
107.08 Rates and Charges
107.09 Lien for Nonpayment

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

1. "Demolition waste" means construction waste, tree stumps, brush and stone in quantities greater than one 30-gallon container or one 30-gallon trash bag and more than 50 pounds per container.

2. "Heavy metal" means all large, heavy objects made predominately of metal, including, but not limited to, all metal appliances.

3. "Mixed paper" means all paper excluding newsprint but including catalogs, magazines, mass mail letters, high quality paper, junk mail and office paper.

4. "Newsprint" means printed matter on newsprint, but excludes books, catalogs, magazines, mass mail letters or similar publications.

5. "Non-recyclable material" means all material not having a present, economic, reusable value. Examples include, but are not limited to:

A. Pyrex and window glass

B. Light bulbs and florescent light bulbs

C. Waxed paper and waxed cardboard

D. Garbage

E. Rubbish

F. Pop and beer boxes

G. Small household appliances (toasters, coffeemakers, hairdryers, etc.)

H. Packing material (peanuts, styrofoam, shredded paper)

I. Vinyl siding

J. Plastic containers and plastic lids not containing the correct recycling emblem

K. Rubbermaid and Tupperware products

L. Styrofoam products, plastic sacks and wrappers

M. Chemical, pesticide, anti-freeze and motor oil containers

N. Unclean paint clans

O. Unclean containers having food or product residue left inside, including pizza boxes

P. Children's toys

6. "Recyclable materials" means:

A. Newspapers

B. Glass – brown, green and flint (clear)

C. Metal – aluminum, steel, tin, copper, brass, iron and others

D. Unwaxed, corrugated cardboard

E. Mixed paper

F. High density polyethylene (#2 HDPE) and polyethylene (#1 PETE) plastic containers

G. Tires

H. Motor vehicle batteries

I. Motor oil

7. "Rubbish" means all waste which does not easily rot or decompose, and is not considered recyclable.

8. "Solid waste" means all garbage, rubbish, and demolition waste as herein defined.

107.02 SEPARATION OF RECYCLABLE MATERIALS. Every person disposing of solid waste or recyclable materials in the City shall separate recyclable materials from garbage, rubbish and other solid waste. This applies to the owner or occupant of each residence or residential unit.

107.03 DISPOSITION OF RECYCLABLES. Recyclable materials shall not be placed in the sanitary landfill. Persons or entities shall place recyclable

materials in City-approved containers for collection or, in the alternative, shall deliver recyclable materials to the recycling center of their choice.

107.04 CONTAINERS FOR COLLECTION. Recyclable materials shall be placed in separate, City-approved containers for recyclables or in a container marked with the City-approved stickers. Recycling containers must be used only for recyclables and not for solid waste. Unauthorized dumping is hereby prohibited.

107.05 PREPARATION AND PLACEMENT OF RECYCLABLE MATERIALS FOR COLLECTION. Recyclable materials shall be separated and prepared for collection as required by the City contracted hauler.

(Ord. 538 – Aug. 01 Supp.)

107.06 REFUSAL OF SERVICE. The collector shall refuse to furnish collection service to any person not complying with or refusing to comply with the regulations contained in this Code of Ordinances governing the collection of garbage, rubbish and other solid waste, and the separation of recyclable materials and yard waste.

107.07 COLLECTION BY UNAUTHORIZED PERSONS. From the time of placement of recyclable materials at the collection point for collection by the City, or its authorized agent(s) in accordance with the terms herein, recyclable materials shall be and become the property of the City or its authorized agent(s). It is a violation of this chapter for any person not authorized by the City to collect or pick up or cause to be collected or picked up any such recyclable materials. Any and each such collection in violation hereof from any one recyclable material container shall constitute a distinct offense.

107.08 RATES AND CHARGES. The rate or charge for each occupied dwelling unit is $4.75 per month and shall be 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. If a household is serviced through one water meter but nonetheless contains more than one dwelling unit, the owner shall be billed for each dwelling unit within the household. Recycling 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. ***(Ord. 652 – Aug. 08 Supp.)***

107.09 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)

[The next page is 501]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Mains and Pipes; Indemnification
110.03 Excavations
110.04 Construction and Maintenance
110.05 Service Requirements
110.06 Nonexclusive
110.07 Term of Franchise
110.08 Entire Agreement

110.01 FRANCHISE GRANTED There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years, subject to a limited right of cancellation as described in Section 110.07, from and after the passage, adoption, approval and acceptance of the ordinance codified by this chapter,[†] to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

110.02 MAINS AND PIPES; INDEMNIFICATION. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley 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 Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, in accordance with industry practices and standards and State and Federal regulations, and shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the

[†] **EDITOR'S NOTE:** Ordinance No. 695 adopting a gas franchise for the City was passed and adopted by the Council on June 25, 2012.

surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same. The Company and City agree to meet on annual basis to discuss upcoming projects by either the Company or City which will necessitate the need for cooperation among the parties. Furthermore, absent emergency, the Company shall use reasonable efforts to advise the City and affected customers, in advance, prior to the commencement of major system upgrades or improvements which will have a material impact upon the use of streets, alleys, and public places within the City.

110.04 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 as defined in Section 26.2(3) of the Code of Iowa, as amended from time to time 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 shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. 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.

110.05 SERVICE REQUIREMENTS. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

110.07 TERM OF FRANCHISE. The term of the franchise granted by the ordinance codified 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 eighth (8th), fifteenth (15th) 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 eighth (8th), fifteenth (15th) or twentieth (20th) anniversary respectively of this franchise. If Company is not notified of the cancellation by the eighth (8th), fifteenth (15th) 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.

110.08 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City as of the date the ordinance codified by this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

(Chapter 110 – Ord. 695 – Feb. 13 Supp.)

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Construction; Maintenance; Indemnification
111.03 Meters and Service Lines
111.04 System Requirements
111.05 Nonexclusive
111.06 Continuous Service
111.07 Term of Franchise

111.01 FRANCHISE GRANTED. There is hereby granted to IES UTILITIES, INC., hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 METERS AND SERVICE LINES. The Company, its successors and assigns shall furnish and install all meters at its own expense and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.04 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

111.05 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.06 CONTINUOUS SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.

EDITOR'S NOTE

Ordinance No. 533 adopting an electric franchise for the City was passed and adopted on January 2, 2001. Voters approved the franchise at an election held on February 20, 2001.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted **112.02 Police Power of City**

112.01 FRANCHISE GRANTED. The West Branch Telephone Company (a corporation), its successors and assigns are hereby granted the right to use and occupy the streets, alley and other public places of the City for a term of twenty-five (25) years from May 5, 1980, for the purpose of constructing, maintaining and operating a general telephone system within said City.

112.02 POLICE POWER OF CITY. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Nonexclusive Franchise
113.02 Franchise Granted
113.03 Right of City to Issue Franchise
113.04 Term
113.05 Franchise Nonexclusive
113.06 Definitions
113.07 Service Area
113.08 System and Capacity
113.09 Construction
113.10 System Services After Upgrade
113.11 Access Channels, Equipment, Facilities and Services
113.12 Subscriber Information and Policy
113.13 Nondiscrimination
113.14 Rates
113.15 Franchise Renewal
113.16 Police Powers
113.17 Franchise Fee and Performance Bond
113.18 Regulation
113.19 Remedies
113.20 Revocation
113.21 Procedures on Termination
113.22 Cooperation
113.23 Waiver
113.24 No Liability
113.25 Notices
113.26 Captions
113.27 No Joint Venture
113.28 Entire Agreement
113.29 Severability
113.30 Force Majeure
113.31 Equal Protection

113.01 NONEXCLUSIVE FRANCHISE. This section grants a ten (10) year nonexclusive franchise renewal to operate a cable television system to MCC IOWA LLC (hereinafter referred to as Grantee). The Franchise granted shall, as set forth below, be subject to the provisions of the West Branch Cable Television Regulatory and Franchise Enabling Ordinance of 2002 and this Franchise Agreement. If the terms and conditions specified in this Franchise conflict with the Ordinance, the provisions of the Franchise shall apply

113.02 FRANCHISE GRANTED.

1. The purpose of this section is to award a Franchise renewal for a cable television system to MCC IOWA LLC. Grantee will endeavor to provide top quality cable service.

2. Enactment. Grantee is hereby granted a nonexclusive Franchise to operate a cable television system within the City in accordance with the Ordinance of this title, which establishes standards, regulations and procedures for the granting of a cable television Franchise, this Franchise and the rules and regulations adopted by the City of West Branch Cable Television Commission, all Ordinances of the City and all applicable rules and regulations of the Federal Communications Commission and the State.

3. Effective Date. This Franchise shall not become finally effective until the Grantee files an acceptance in writing with the City of West Branch. The Grantee shall have up to sixty (60) days from the date the Franchise is signed by the Mayor to provide such written acceptance.

Immediately upon the taking effect of this Franchise Agreement, the prior franchise granted to MCC IOWA LLC shall be superseded and of no further force and effect; provided, however, vested rights relating to billings and the City's rights to accrued franchise fees shall not be affected thereby.

4. Use of Public Ways. For the purpose of operating and maintaining a cable television system in the City, Grantee may erect, in, over, under, or upon, across, and along the public streets, alleys, and ways within the City such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable television system in the City and in accordance with this Franchise and the Ordinance.

113.03 RIGHT OF CITY TO ISSUE FRANCHISE. Grantee acknowledges and accepts the legal right of the City to issue this Franchise.

113.04 TERM. The term of the Franchise renewal shall be for a period of ten (10) years from the effective date, unless extended or sooner terminated as provided in the Franchise, at which time it shall expire and be of no further force and effect. The term of the Franchise shall be automatically extended five (5) additional years if the upgrade required by this Franchise is completed no later than December 31, 2002. The total term of the Franchise shall be fifteen years if the upgrade is completed no later than December 31, 2002. The term of the Franchise will expire three (3) years following permanent disruption of interconnection to a master headend facility serving more than 10,000 customers if the Franchise is transferred to an entity not held in common control with the original Grantee of the franchise and the quality, level and mix of programming and services is diminished.

113.05 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of the Ordinance, this Franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the term of this Franchise or renewal thereof, if any, such additional Franchises for a cable communications system as it deems appropriate. In the event the Franchising Authority enters into a franchise with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable television system to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein,

taking into account the size and population of the franchised area, including but not limited to, franchise fees, external costs, access fees, if applicable, design, term, density requirements and system capacity requirements. In the event that the City grants another cable television franchise, Grantee may petition the City to modify the terms of this Franchise that Grantee does not believe are reasonably comparable to those of any other franchise. The City shall act on the petition as soon as practicable.

113.06 DEFINITIONS. The following words shall have the meaning set forth in this section unless the context clearly requires otherwise:

1. "Access channel" means any channel used as an access channel as defined in the Cable Communications Policy Act of 1984 (47 USC 521 *et seq.*) as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Cable Television Act of 1996 (the Act).

2. "Basic cable service" means any service tier which includes, at a minimum, the transmission of local television broadcast signals, and local access channels.

3. "Basic cable equipment" means the equipment used by subscribers to receive the basic service tier, including, but not limited to, converter boxes, remote controls, connections for additional television sets and cable home wiring.

4. "Broadcast services" means a broad category of programming that is received from broadcast television and is capable of being received in the City.

5. "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service, which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. A facility that serves only subscribers without using the public right-of-way;

C. A facility of a common carrier, which is subject in whole or in part, to the provision of subchapter II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly

to subscribers unless the extend of such use is solely to provide interactive on-demand services;

D. An open video system that complies with Section 653 of the Cable Act;

E. Any facilities of any electric utility used solely for operating its electric utility system.

6. "Cablecast signal" means a nonbroadcast signal that originates within the facilities of the cable system.

7. "Cable service" means:

A. The one-way transmission to subscribers of video programming or other programming services; and

B. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

8. "Channel" or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

9. "Commence construction" means the time and date when construction of the cable communications system is considered to have commenced, which shall be when the first connection is physically made to a utility pole, or when the placement of cables underground is initiated, after preliminary engineering (including strand mapping) and after all necessary permits and authorizations have been obtained.

10. "Commence operation" means that time and date when operation of the cable communications system is considered to have commenced which shall be when sufficient distribution facilities have been installed so as to permit the offering of full services to at least 25% of dwelling units located within the franchise area.

11. "Commercial use channel" means the channel capacity designated for commercial use as defined and required by Federal law.

12. "Completion of construction" means that point in time when all distribution facilities specified in the franchise agreement have been installed by the Grantee so as to permit the offering of cable service to all of the potential subscribers in the franchise area, as well as the provision, in an operational state, or any facilities required by the franchise agreement.

13. "Control" or "controlling interest" means actual working control or ownership of a West Branch cable system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or entity (except underwriters during the period in which they are offering securities to the public) of fifty percent (50%) or more of a West Branch cable system or the franchise under which the system is operated. A change in the control or controlling interest of an entity which has control or a controlling interest in a Grantee shall constitute a change in the control or controlling interest of the West Branch cable system under the same criteria.

14. "Converter" means an electronic device which converts signal carriers from one form to another.

15. "Dwelling unit" means any individual or multiple residential place of occupancy.

16. "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

17. "Franchise" means the right granted through a franchise agreement between the Grantor and a person by which the Grantor authorizes such person to erect, construct, reconstruct, operate, dismantle, test, use and maintain a system in the City.

18. "Franchise agreement" means a contractual agreement entered into between the Grantor and any Grantee hereunder which is enforceable by Grantor and said Grantee and which sets forth rights and obligations between Grantor and said Grantee in connection with the franchise.

19. "Franchise fee" means any assessment imposed hereunder by the Grantor on a Grantee solely because of its status as a Grantee. The term "franchise fee" does not include:

A. Any tax, fee, or assessment of general applicability (including any such tax for or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against Grantee);

B. Capital costs which are required by the franchise to be incurred by Grantee for educational or governmental access facilities;

C. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or

D. Any fee imposed under Title 17, United States Code.

20. "Grantee" or "applicant" means any person granted a franchise hereunder, its agents, employees, or subsidiaries.

21. "Grantor" means the City.

22. "Gross revenue (annual)" means all revenue received by the Grantee from subscribers from the operation of Grantee's cable system to provide cable service in the service area. Gross revenues include, without limitation, amounts for all cable service, including but not limited to basic service and tier service, premium and pay-per-view services, leased access, installation and all other revenues derived from the operation of Grantee's cable television system to provide cable services, adjusted for nonpayment. Gross revenues include late fees. Gross revenues shall not deduct the following:

A. Any operating expense;

B. Any accrual, including without limitation any accrual for commissions; or

C. Any other expenditures, regardless of whether such expense, accrual or expenditure reflects a cash payment, but revenue shall be counted only once in determining gross revenue.

Gross revenues also include the revenue of any affiliate, subsidiary, parent or any person or entity in which each Grantee has a financial interest, derived from the operation of the cable television system to provide cable services, to the extend such revenue is derived through any means that has the effect of avoiding the payment of franchise fees that would otherwise be paid to the Grantor. Revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest that represent a transfer of fund between them and that would constitute gross revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest shall be counted only once for purposes of determining gross revenues. Gross revenues shall not include any tax, fee, or assessment of general applicability collected by the Grantee from subscribers for pass through to a government agency, including the FCC user fee.

23. "Initial service area" means the area of the City which will receive service initially, as set forth in the franchise agreement.

24. "Installation" means the connection of the system from feeder cable to subscribers, terminals, and the initial provision of service.

25. "Leased access" means the use of the system by any business enterprise or other entity whether profit, nonprofit or governmental to render services to the citizens of the City, all use pursuant to Section 612 of the Cable Act.

26. "Local origination channel" means any channel where the Grantee or its designated agent is the primary programmer, and provides locally produced video programs to subscribers.

27. "Normal business hours," as applied to the Grantee, means those hours during which similar businesses in the City are open to serve customers. In all cases, normal business hours must include some evening hours at least one night per week, and/or some weekend hours.

28. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

29. "Public/Education/Government Access Facilities" or "PEG Access Facilities" means the total of the following:

A. Channel capacity designated for public, educational or governmental use; and

B. Facilities and equipment for the use of such channel capacity.

30. "Resident" means any person residing in the City as otherwise defined by applicable law.

31. "School" means any public or private elementary school, secondary school, junior college, college or university which conducts classes or provides instructional services and which has been granted a certificate of recognition by the State of Iowa.

32. "Service area" is synonymous with franchise territory as defined in this chapter.

33. "Service interruption" means the loss of picture or sound on one or more cable channels.

34. "Street" means the surface of and the space above and below any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway, driveway or other public way now or hereafter existing as such within the City.

35. "Subscriber" means any person who legally receives any one or more of the services provided by the system, has an account with the Grantee and has elected to receive service.

36. "West Branch Cable Television Commission" is an advisory body to the Council on matters pertaining to the cable system and telecommunications system within the City. (See Chapter 25 of this Code of Ordinances for specifics regarding this body.)

37. "Headend" means the starting point of the cable system and generally includes the electronic processing equipment and other appurtenances necessary to receive and process satellite delivered programming to the cable system.

113.07 SERVICE AREA.

1. Service to All Residents. Grantee shall offer cable television service to all areas of the City which are in the corporate limits of the City of West Branch and that meet the density requirements under subsection 2 of this section, on the effective date of this Franchise.

2. New Residential Construction. Grantee shall extend service to all new residences in all unwired developments within six months of a request of a subscriber in an area to be served by underground construction and within three months of a request of a subscriber for areas to be served aerially, whenever density of at least eight (8) residential dwelling units per 1320 cable plant feet (one-quarter mile); as measured from the existing facilities of Grantee's cable system in the franchise area. For purposes of this section, density per cable mile shall be computed by dividing the number of residential dwelling units in the area by the length, in miles or fractions thereof, of the total length of aerial or underground cable necessary to make service available to the residential dwelling units in such area in accordance with Grantee's system design parameters. The cable length shall be measured from the

nearest point on the then-existing system. The total cable length shall exclude the drop cable necessary to serve individual subscriber premises.

3. Service Area. The service area of Grantee shall be the entire corporate boundaries of the City of West Branch and includes any areas annexed to the City in the future.

4. Commercial Service. Grantee shall, upon request, make service available to all commercial/industrial establishments served aerially which are located within 125 feet of the system.

5. House Moving. Grantee shall, upon the request of the City, move and replace its facilities to accommodate house moves conducted on behalf of the City, at a time and material cost to the City. Wherever feasible, the City shall use its best efforts to ensure that house moves follow the same or similar path. The Grantee shall have the right to require advance payment from non-municipal entities requesting relocation of Grantee's facilities to allow for movement of structures.

113.08 SYSTEM AND CAPACITY.

1. System. The parties understand and agree that Grantee shall upgrade the cable system to provide a minimum capacity of 110 channels utilizing hybrid fiber coaxial construction. Each subscriber drop shall be designed to provide service to three (3) outlets. The system will be designed to be capable of interconnecting with systems owned by MCC IOWA LLC or affiliated entities.

2. Construction Timetable. Grantee shall upgrade the channel capacity of the system as specified above no later than July 17, 2004.

3. Drop Maintenance. Grantee shall maintain and replace subscriber drops during its normal operation of the Cable System that do not meet the standards of the National Electric Code. The cable system shall be designed to allow each subscriber's drop to provide service to three (3) television outlets. The Grantee shall notify Customers of completion of the upgrade and shall notify customers via billing message that their drop may need to be replaced at no charge if cable service reception is poor.

4. Construction Oversight. Grantee will inspect 100% of all fiber and coaxial cable to insure that it meets the specifications of the Ordinance and this Franchise. The Grantee shall designate an employee to act as a company representative for responding to public service complaints on a daily basis during the rebuild and provide the City with the person's name and telephone number.

5. Compliance with Applicable Law. In constructing, operating and maintaining the system, Grantee shall at all times comply with all lawful requirements of the Ordinance and all applicable laws and regulations.

6. Equipment Quality. Equipment used for the distribution system, headend and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis.

7. Converters. All programming services exclusively offering adult rated programming shall provide picture and audio scrambling of services not purchased by a specific subscriber.

8. Emergency Alert. Grantee shall comply with all current and subsequent Federal Communications Commission Emergency Alert System rules and regulations.

9. Test Equipment. Throughout the term of the Franchise, Grantee shall have accessible to West Branch within a 24-hour period adequate test equipment to troubleshoot system problems and monitor system performance as required by this Franchise and applicable FCC regulations.

10. Ongoing Preventive Maintenance. Grantee will comply with the preventive maintenance program. It is the Grantee's responsibility to make sure that the Cable System in the City is tested and all detected leaks are repaired within the time periods set forth in FCC regulations.

11. Satellite Earth Station. The system configuration shall include earth stations if necessary to ensure the ability to receive signals from operational communications satellites that predominately carry programming services available to cable systems throughout the life of the Franchise.

12. Standby Power. Grantee shall provide suitable standby power-generating capacity at the master headend upon completion of the upgrade and interconnection to a master headend facility.

13. Parental Control Devices. Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The cost to subscribers for parental control devices is subject to FCC regulation.

14. Performance Testing. Grantee shall perform all system tests and maintenance procedures as required by and in accordance with: the FCC; Franchise; Ordinance; Grantee's standards of good operating practice;

and the National Cable Television Association's test procedure guidelines.

15. Technical Standards. The cable communications system permitted to be operated hereunder shall be installed and operated in conformance with the FCC rules and regulations. Any FCC technical standards or guidelines related to the cable communications system and facilities shall be deemed to be regulations under this Franchise. At such time as the FCC does not regulate technical standards, Grantee will continue to comply with the FCC standards which were in effect on the effective date of this Franchise, unless such compliance becomes commercially or technically impracticable.

16. Employee Identification. Grantee shall provide a standard identification document to all employees, including employees of subcontractors, who will be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, Grantee shall use its best efforts to clearly identify all field personnel, vehicles, and other major equipment that are operating under the authority of Grantee.

17. Stereo. The Grantee shall be encouraged to provide Broadcast Television Systems Committee (BTSC) stereo signals where commercially practicable.

113.09 CONSTRUCTION.

1. System Design Review. The City shall have the authority to review the technical plans of the system to ensure that the system meets the requirements of City Code governing construction within public rights-of-way and applicable placement standards. Grantee shall provide the following information: a strand map identifying the location of cable plant in the rights-of-way and contact engineer who will be available to discuss project details. Grantee may use existing coaxial cable which meets Grantee's technical specifications. In cases where the cable does not meet such specifications, Grantee shall replace the cable and shall use its best efforts to minimize disruption to affected subscribers. The City shall protect the proprietary system design information submitted by Grantee. The Grantee shall send the information to the location specified by the City as such maps are available to the Grantee. Grantee’s regional engineer will review the design with City designated persons.

2. Permitting. The Grantee shall follow the permitting process as specified by City Code.

3. Underground Construction. Grantee shall, participate in and use Iowa One Call to the extend that State law requires participation. Grantee shall bury underground cable at a minimum depth of twelve (12) inches. Temporary drops will be buried within one month of installation, weather permitting.

4. Consumer Compatibility. Grantee shall comply with FCC consumer compatibility rules and guidelines. The basic tier of service shall be offered in a format compatible with FCC regulations.

5. Conversion. Subscribers shall not be charged by Grantee for conversion from the existing system to any new system constructed by Grantee. In the event that special additional or customized equipment is requested by any subscriber or is required to provide such service to any subscriber, Grantee may charge the subscriber for such equipment. Grantee will notify subscribers and the public in general of any cutover, using a combination of at least two of the following: bill stuffers, direct mail, news releases, radio announcements, CSR training, and community bulletin board announcements.

113.10 SYSTEM SERVICES AFTER UPGRADE.

1. Initial Residential Subscriber Services. During the upgrade period, Grantee shall initially provide the same or similar programming as currently provided on the system.

2. Additional Services. Upon completion of the upgrade, Grantee shall provide a good mix of entertainment and information programming generally available to the cable television industry, taking into account the needs and interest of the population of the City of West Branch and the cost of the programming.

3. Leased Access Channels. Grantee shall offer leased access channels at such terms and conditions and rates as may be negotiated with each lessee subject to the requirements of Section 612 of the Cable Act.

4. Cable Drops and Monthly Service. Grantee shall provide one free cable drop and free, basic and expanded basic service, excluding premium services, audio services, pay-per-view, etc., to all current and future public buildings, included but not limited to, City Offices, Municipal Town Hall, Public Library, public schools, Herbert Hoover National Historic Site, Herbert Hoover Presidential Library - Museum locations that are located in the Service Area. All non-premium programming shall be transmitted to all of these locations on the cable system, free of charge. The Grantor shall pay all installation costs for

future public buildings where the drop length exceeds 150 feet or where installation costs exceed normal and customary installation costs necessary to provide service in a residential area. The Grantor shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection.

5. Closed Captioning. Grantee shall pass through all closed-circuit signals received by the system for the hearing impaired and all audio encoded signals received by the system for the visually impaired.

113.11 ACCESS CHANNELS, EQUIPMENT, FACILITIES, AND SERVICES. In order to develop and promote public, educational, and government access programming for the system's access channels, Grantee hereby agrees to provide the following:

1. Access Channels. Grantee shall continue to provide one access channel dedicated to Public, Educational and/or Government programming. The Grantor agrees to indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the use of the Grantee's Channel for PEG by the Grantor or its designee.

2. Local PEG Capital Support Fee. As soon as practicable after the date of this Franchise renewal, but in no event later than 120 days, the City and the Grantee shall provide for the assessment and collection of a $0.35 per subscriber/per month local programming fee as follows:

A. Representatives of the City and the Grantee shall develop a joint notice to subscribers that describes the purpose of the fee and the City's plans for the proceeds from the fee.

B. Within 45 days after the delivery of the joint notice to subscribers, Grantee shall adjust its monthly bills to include the $0.35 per subscriber fee as a separate line item on subscriber bills.

C. On a quarterly basis thereafter, Grantee shall pay to the City the equivalent of $0.35 per subscriber per month, adjusted for non- payment.

D. The PEG Capital Support Fee shall be adjusted for inflation beginning in year five of the agreement by using the consumer price index.

E. The City shall use the proceeds of the fee for capital support of PEG access programming. The term capital shall be defined in accordance with applicable law.

F. Within 15 months after the initial assessment of the fee, the City shall complete a review of the fee. After the initial review, the City may conduct similar reviews periodically at its discretion. A review shall include an opportunity for public comment on matters relating to the fee. After a review, if the City determines that collection of the fee is no longer necessary or desirable for the support of PEG programming, the City shall notify Grantee that it will cease assessing the fee and that payment of the fee to the City is no longer required.

G. The City shall indemnify and hold the Grantee harmless from any claims by any Person that the PEG Capital Support Fee violates applicable law. The Grantor and Grantee agree to follow the rules and regulations of the FCC regarding PEG capital funding in the event that the PEG Capital Support Fee is determined by a court of competent jurisdiction to violate applicable law.

3. Signal Quality. Grantee shall assure that the access channel delivery system from the Community Television Facility and all other origination points specified herein meet the same technical standards as the remainder of the system as set forth in Section VIII herein.

4. Treatment. The Grantee will provide the City with notice of the content and format of any separate line item on the monthly bill related to local programming.

5. Origination Sites. The Grantee shall provide and maintain throughout the franchise term, the active origination lines from The West Branch Library, the West Branch Municipal Building, the West Branch High School Auditorium, and the West Branch Municipal Offices from which local programming can be originated on the Cable System no later than 60 days following the completion of the upgrade. The Grantee shall provide two modulators to the City for the activations of the sites.

6. Second PEG Access Channel. The Grantee shall provide a 2nd channel dedicated for PEG access after the completion of the upgrade and upon request of the City, if the access channel provided under this section is proven with documentation to be in use 80% of the cablecast week for any 6 week consecutive timeframe for at least 12 hours per day, 7 days per week with unduplicated locally originated programming. Programming consisting primarily of text messages shall not be included in calculating PEG access use. In no event shall the Grantee be required to provide more than 2 access channels.

113.12 SUBSCRIBER INFORMATION AND POLICY.

1. The Grantee shall provide subscriber information in accordance with 47 U.S.C. § 551, as it may be amended. Thereafter, Grantee shall provide subscribers with privacy information and other information, as required by FCC regulations, as amended. Such subscriber information shall be filed with the City concurrent with distribution to subscribers.

2. Grantee shall also provide a locally listed telephone number in a locally provided telephone directory, and other equipment, as needed within the area, to ensure timely, efficient and effective service to consumers and for the purpose of receiving inquiries, requests and complaints concerning all aspects of the construction, installation, operation, and maintenance of the system.

3. Subscriber Complaints. Pursuant to the Ordinance, Grantee shall promptly respond to all subscriber complaints. Grantee shall maintain a record of all subscriber complaints received and make these available to the City upon written request on a monthly basis. Records should include the date complaint was received, the nature of the complaint, what action was taken by the Grantee to remedy the complaint, and the date action was dispensed. Grantee shall not provide any personally identifiable Subscriber information to the City and shall comply with Section 631 of the Cable Act at all times. Nothing herein shall require Grantee to maintain or repair any equipment not provided by it.

4. Major Outages. Grantee shall maintain records of all major outages defined as a discontinuation of cable service from one or more fiber nodes in the City of West Branch. Such records shall indicate the estimated number of subscribers affected, the date and time of first notification or of Grantee knowledge of the outage, the date and time service was restored, the cause of the outage and a description of the corrective action taken. Such records shall be provided to the City on a monthly basis upon request. Upon written request of the City, a statistical summary of such records shall be prepared by Grantee and submitted to the City annually.

5. Customer Handbook. Grantee shall provide written customer policies or a handbook to all new subscribers and, thereafter, upon request. Grantee's written customer policies or handbook shall, at a minimum, comply with all notice requirements in the Ordinance and those promulgated by the FCC. If Grantee's operating rules are changed subscribers shall be notified in a timely manner. Rate and consumer complaint procedures will be distributed annually to subscribers. Grantee shall file a consumer handbook with the City annually.

6. FCC Standards for Customer Service. Grantee shall meet the FCC's Standards for Customer Service. If Grantee does not meet such Standards for two (2) consecutive months the Grantee shall take corrective action to ensure compliance in subsequent months. At such a time as the FCC no longer promulgates customer service standards, the FCC standards in effect on the effective date of this franchise will be in force.

7. Downgrades. Subscribers shall have the right to have cable service downgraded in accordance with FCC rules. A downgrade in service shall be made as soon as practical and adjustment in billings shall be effective upon subscriber's notification of a desire to downgrade service. Refunds of unused service charges shall be paid or credited to subscriber bills within forty-five (45) days from the termination of service or downgrade in service. The Grantee shall provide a message explaining when any downgrade fees or charges may apply to customer accounts.

8. Outages. Grantee shall credit subscribers for verifiable outages of six (6) hours or more for levels of service affected by such outages upon the request of the Subscribers affected.

9. Subscriber Contracts. All contracts between Grantee and subscribers shall be in compliance with the Ordinance and the Franchise. Grantee shall file a copy of all standard form subscriber contracts with the City annually.

10. Payment Stations. Grantee shall maintain a payment drop station at conveniently located drop sites in West Branch for the duration of the franchise.

11. Repair Calls. Grantee shall offer subscribers repair service appointments in four-hour windows. The Grantee shall endeavor to telephone the subscriber prior to arriving for a repair call. Grantee will conduct repair calls on weekdays and Saturdays.

12. Installation. Subscriber service shall be installed within seven days of a request during normal operating conditions.

13. Administrative Fee and Disconnects. Administrative fees are charged on any accounts which have not been paid prior to the next billing cycle. Disconnection of accounts due to non-payment occurs no sooner than after 45 days of due date. Disconnection of accounts due to non-payment shall not occur sooner than 45 days of due date. Grantee shall endeavor to notify subscribers of the amount due Grantee and

Grantee's intent to disconnect service for non-payment a minimum of seven (7) business days prior to disconnection.

14. Subscriber Bill. Grantee shall include its name, address, and telephone number on the subscriber bill and the portion of the bill retained by the subscriber. Grantee shall comply with FCC rules regarding the listing of the Franchising authority's address and telephone number on subscriber bills.

113.13 NON-DISCRIMINATION. Grantee agrees that it shall not discriminate in providing service to the public nor against any employee or applicant for employment because of race, color, creed, religion, sex, disability, gender identity, national origin, age, sexual orientation, or marital status. In the employment of persons, Grantee shall fully comply with applicable local, State and Federal law.

113.14 RATES. The City shall have the ability to regulate rates in accordance with Federal law

113.15 FRANCHISE RENEWAL. Subject to 47 U.S.C. § 546, as amended, this Franchise may be renewed by the City in accordance with the Ordinance.

113.16 POLICE POWERS. In accepting this Franchise, Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general Ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and Ordinances enacted by the City pursuant to such power.

113.17 FRANCHISE FEE AND PERFORMANCE BOND.

1. Franchise Payments. Grantee shall pay to the City a Franchise fee of five (5%) percent of gross annual revenues during the period of its operation under the Franchise, pursuant to the provisions of the Ordinance.

2. The Grantor may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum allowed by federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the Grantor shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

3. Bonds. Grantee shall furnish a construction bond to the City as specified in the Ordinance during the construction of an upgrade or rebuild. The construction bond requirements of the Ordinance shall not apply to MCC Iowa LLC or any entity commonly held by the same parent company as holds MCC Iowa LLC. The Grantee shall provide a Performance Bond executed in the amount of $100,000 to secure the faithful performance by the Grantee of its obligations under this Franchise Agreement. This guarantee, however, shall not limit the liability of the Grantee for any failure to perform its obligations under this Franchise Agreement.

4. Security Fund. Grantee shall furnish a Security Fund of $10,000 which shall be replenished within ten (10) days of use by the City as specified in the Ordinance to a total amount of $10,000. The Security Fund shall be maintained during the life of the Franchise, to guarantee the faithful performance of all its obligations under the Franchise and Ordinance. The Security Fund shall not apply to MCC Iowa LLC or any entity commonly held by the same parent company as holds MCC Iowa LLC.

5. MCC Iowa LLC or any entity commonly held by the same parent company as holds MCC Iowa LLC shall be exempt from the requirements of Section 48 parts (e) through (h) pertaining to the establishment of a security fund.

113.18 REGULATION.

1. The City shall exercise appropriate regulatory authority under the provisions of the Ordinance and this Franchise. Regulation may be exercised through any duly designated City office or duly established Board or Commission or other body of the City. In all cases, however, the Grantee shall have the right to request that any regulation by the City shall be performed by the City Council of West Branch.

2. Grantee, by accepting the rights hereby granted, agrees that it will perform and keep all lawful acts and obligations imposed, represented or promised by the provisions of this Franchise.

113.19 REMEDIES.

1. Schedule of Liquidated Damages. Because Grantee's failure to comply with certain material provisions of this Agreement and the Ordinance will result in injury to the City or to subscribers, and because it will be difficult to estimate the extent of such injury, the City and Grantee hereby agree that the liquidated damages and penalties stated in

the Ordinance represent both parties' best estimate of the maximum possible damages resulting from the specified injury. The parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact of the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or Subscribers.

2. Violations. For the violation of any of the following, the City shall notify Grantee in writing of the violation. The City shall provide Grantee with a detailed written notice of any Franchise violation upon which it proposes to take action, and there shall be a thirty (30) day period within which Grantee may demonstrate that a violation does not exist or cure an alleged violation or, if the violation cannot be corrected in thirty (30) days, submit a plan satisfactory to the City to correct the violation. If an alleged violation is proven to exist, following a duly noticed public hearing, and no cure or action on a plan acceptable to the City has been received by the City within thirty (30) days, such liquidated damages shall be chargeable to the Security Fund as set forth in the Ordinance if not tendered by Grantee within thirty (30) days. Grantee may petition the City Council for relief with just cause. The imposition of liquidated damages shall not preclude the City from exercising the other enforcement provisions of the Franchise, including revocation, or other statutory or judicially imposed penalties. Liquidated damages may be imposed as follows:

A. For failure to complete construction or extend service in accordance with Franchise: $150/day for each day the violation continues.

B. For failure to comply with requirements for public, educational and government access: $100/day for each day the violation continues.

C. For failure to submit reports, maintain records, provide documents or information: $100/day for each day the violation continues.

D. For violation of customer service standards required by this Franchise, the Ordinance, or by FCC regulation: $100/day per standard violated.

E. For violation of the books and financial records provisions of this Franchise and the Ordinance: up to $100/day for each day the violation continues.

F. For violation of other material provisions of this Franchise or the Ordinance: up to $100/day for each day the violation continues.

113.20 REVOCATION.

1. Grounds for Revocation. If the Grantee has been given due notice and a reasonable opportunity to cure, the Grantor reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default under this Ordinance and a material breach of the franchise:

A. If the Grantee shall default in the performance of any of its material obligations under this Ordinance or under such documents, agreements and other terms and provisions entered into by and between the Grantor and the Grantee, subject to the provisions on cure.

B. If the Grantee should fail to provide or maintain in full force and effect, the liability and indemnification coverage or the security fund or bonds as required herein.

C. If the Grantee ceases to provide service for a period exceeding thirty (30) days for any reason within the control of the Grantee over the cable system, or abandons the management and/or operation of the system.

D. If the Grantee willfully violates any of the material provisions of this Ordinance or the Franchise Agreement or attempts to practice any fraud or deceit upon the Grantor.

E. If the Grantee becomes insolvent, or upon listing of an order for relief in favor of Grantee in a bankruptcy proceeding.

F. If the Grantee transfers a controlling interest of the franchise without the prior approval or consent of the Grantor as required in Section 9.

2. Procedure prior to revocation.

A. The Grantor shall make a written demand that the Grantee comply with any requirements, limitations, terms, conditions, rules or regulations or correct any action deemed cause for

revocation. Such written demand shall detail the exact nature of the alleged noncompliance and shall provide the Grantee with 90 days in which to correct the alleged noncompliance. In the event the stated violation is not corrected to the City's satisfaction within said 90 days, the Grantor shall schedule a public hearing and notify the Grantee in writing of said public hearing.

B. At the scheduled public hearing, the Grantor shall hear any persons interested therein and shall provide the Grantee with an opportunity to provide testimony and evidence. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Grantor, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the Grantor shall determine whether or not the Franchise shall be revoked. If the Grantor determines that the Franchise shall be revoked, the Grantor shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority de novo. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

C. If the Grantor determines that the Grantee has willfully committed a material breach, then the Grantor may, by resolution, declare the franchise terminated. Alternatively, the Grantor may, at its option, direct the Grantee to take appropriate remedial action within such time and under such terms and conditions as the Grantor may prescribe in order to avoid termination of the franchise.

113.21 PROCEDURES ON TERMINATION.

1. Disposition of Facilities. Subject to Federal, State and local laws, in the event a franchise expires, is revoked, or otherwise terminated, the Grantor may order the removal of the above-ground system facilities from the franchise area within a reasonable period of time as determined by the Grantor or require the original Grantee to maintain and operate its

cable system for a period not to exceed twenty-four (24) months as indicated in (4) below.

2. Restoration of Property. In removing its plant, structures, and equipment, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its plant, structures and equipment without affecting the electrical or telephone cable wires, or attachments. The Grantee's insurance, indemnity obligations, performance bond(s) and security fund(s) required by this Ordinance and by the Franchise Agreement, shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this Section.

3. Restoration by Grantor; Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required by Subsection 1 above and/or Subsection 2 above, or any other work required by Grantor by law or ordinance, within thirty (30) days after receipt of written notice, and to the satisfaction of the Grantor, the Grantor may cause such work to be done and the Grantee shall reimburse the Grantor the cost thereof within thirty (30) days after receipt of an itemized list of such costs or the Grantor may recover such costs through the security fund or bonds provided by Grantee. The Grantor shall be permitted to seek legal and equitable relief to enforce the provisions of this Section.

4. Extended Operation. Subject to Federal, State and local law, upon either the expiration or revocation of a franchise, the Grantor may require the Grantee to continue to operate the cable system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor in interest, continue to operate the cable communications system under the terms and conditions of this Ordinance and the Franchise Agreement.

5. Grantor's Rights not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the Grantor under any provision of law.

113.22 COOPERATION. The parties recognize that it is within their mutual best interests for the cable television system to be operated as efficiently as possible in accordance with the requirements set forth in this Agreement. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall

notify the person or agents specified herein to facilitate the particular action requested.

113.23 WAIVER. The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

113.24 NO LIABILITY. Nothing herein shall be deemed to create civil liability by one party for action, omissions or negligence of the other party, or of a party's agents, employees, officers or assigns. Each party shall be solely liable for claims against it by third parties, whether arising under the Cable Act or under any other provision of law.

113.25 NOTICES. All notices from MCC IOWA LLC to the City pursuant to this Agreement shall be sent to the following address for the conduct of matters related to the Franchise. All notices to the City should be sent to: City Administrator, City of West Branch, 304 E. Main St., P.O. Box 214, West Branch, Iowa 52358. All notices to MCC from the City shall be sent to this address: 6300 Council St., NE, Cedar Rapids, IA 52402.

113.26 CAPTIONS. Captions to sections throughout this Franchise are solely to facilitate the reading and reference to the sections and provisions of the Agreement. Such captions shall not affect the meaning or interpretation of the Agreement.

113.27 NO JOINT VENTURE. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner which would indicate any such relationship with the other.

113.28 ENTIRE AGREEMENT. This Agreement and all attachments hereto, and the Ordinance and all attachments thereto, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only as provided by mutual agreement.

113.29 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement, except as provided for in the Ordinance.

113.30 FORCE MAJEURE. Any delay, preemption, or other failure to provide cable service and to perform other duties contained in this Ordinance and the Franchise Agreement by the Grantee caused by factors beyond the Grantee's control, such as acts of God, labor disputes, non-delivery by program suppliers, war, riots, government order or regulation, shall not result in a breach of the terms of this Ordinance and Franchise Agreement. Grantee shall exercise its reasonable efforts to cure any such delays and the cause thereof, and performance under the terms of this Ordinance and Franchise Agreement shall be excused by Grantor, for the period of time during which such factors continue.

113.31 EQUAL PROTECTION. In the event the Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a cable television system, or providing cable television service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

EDITOR'S NOTE

Ordinance No. 312 adopting a cable TV franchise for the City was passed and adopted on November 2, 1981. Pursuant to an Assignment and Assumption of Franchise dated December 23, 1994, the franchise was assigned to Galaxy Telecom, Inc. Ordinance No. 542, adopted October 1, 2001, extended the cable television franchise agreement with MCC Iowa LLC until such time as renewal negotiations have been resolved, but no later than November 1, 2001. Ordinance No. 548, adopted January 22, 2002, extended the cable television franchise agreement with MCC Iowa LLC until such time as renewal negotiations have been resolved, but no later than May 30, 2002. Ordinance No. 552, adopted May 20, 2002, renewed the cable television franchise agreement with MCC Iowa LLC for 10 years.

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CHAPTER 113A

CABLE TELEVISION FRANCHISE

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113A.01 NONEXCLUSIVE FRANCHISE. This section grants a five (5) year nonexclusive franchise to operate a cable television system to the West Liberty Telephone Company d/b/a Liberty Communications (hereinafter referred to as Grantee). The Franchise granted shall, as set forth below, be subject to the provisions of the West Branch Cable Television Regulatory and Franchise Enabling Ordinance of 2002 and this Franchise Agreement. If the terms and conditions specified in this Franchise conflict with the Ordinance, the provisions of the Franchise shall apply.

113A.02 FRANCHISE GRANTED.

1. Purpose. The purpose of this section is to award a competitive Franchise renewal for a cable television system to West Liberty Telephone Company d/b/a Liberty Communications. Grantee will endeavor to provide top quality cable service.

2. Enactment. Grantee is hereby granted a nonexclusive Franchise to operate a cable television system within the City in accordance with Chapter 117 of the Code of Ordinances, which establishes standards, regulations and procedures for the granting of a cable television franchise, this Franchise and the rules and regulations adopted by the City of West Branch Cable Television Commission, all Ordinances of the City and all applicable rules and regulations of the Federal Communications Commission and the State.

3. Preemption. Any condition or provision of this Franchise or the Ordinance which is inconsistent with State or Federal law shall be

deemed to be preempted and superseded. Nothing in the Ordinance or this Franchise shall impose any requirement that has the purpose or effect of prohibiting, limiting, restricting or conditioning the provision of a telecommunications service or advanced telecommunications service by Grantee.

4. Effective Date. This Franchise shall not become finally effective until the Grantee files an acceptance in writing with the City of West Branch. The Grantee shall have up to sixty (60) days from the date the Franchise is signed by the Mayor to provide such written acceptance.

5. Use of Public Ways. For the purpose of operating and maintaining a cable television system in the City, Grantee may erect, in, over, under, or upon, across, and along the public streets, alleys, and ways within the City such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of the cable television system in the City and in accordance with this Franchise and the Ordinance.

113A.03 RIGHT OF CITY TO ISSUE FRANCHISE. Grantee acknowledges and accepts the legal right of the City to issue this Franchise.

113A.04 TERM. The term of the Franchise shall be for a period of five (5) years from the effective date, unless extended or sooner terminated as provided in the Franchise, at which time it shall expire and be of no further force and effect. The term of the Franchise will expire three (3) years following permanent disruption of interconnection to a master headend facility serving more than 10,000 customers if the Franchise is transferred to an entity not held in common control with the original Grantee of the franchise and the quality, level and mix of programming and services is diminished.

113A.05 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of the Ordinance, this Franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The City specifically reserves the right to grant or renew at any time during the term of this Franchise or renewal thereof, if any, such additional Franchises for a cable communications system as it deems appropriate. In the event the Franchising Authority enters into or renews a franchise with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable television system to any part of the service area, the material provisions thereof shall be reasonably comparable to those

contained herein, taking into account the size and population of the franchised area, including but not limited to, franchise fees, external costs, access fees, if applicable, design, term, density requirements and system capacity requirements. In the event that the City grants or renews another cable television franchise, Grantee may petition the City to modify the terms of this Franchise that Grantee does not believe are reasonably comparable to those of any other franchise. The City shall act on the petition as soon as practicable.

113A.06 DEFINITIONS. The following words shall have the meaning set forth in this section unless the context clearly requires otherwise:

1. "Access channel" means any channel used as an access channel as defined in the Cable Communications Policy Act of 1984 (47 USC 521 *et seq.*) as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Cable Television Act of 1996 (the "Cable Act").

2. "Basic cable service" means any service tier which includes, at a minimum, the transmission of local television broadcast signals and local access channels.

3. "Basic cable equipment" means the equipment used by subscribers to receive the basic service tier, including, but not limited to, converter boxes, remote controls, connections for additional television sets and cable home wiring.

4. "Broadcast services" means a broad category of programming that is received from broadcast television and is capable of being received in the City.

5. "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service, which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. A facility that serves only subscribers without using the public right-of-way;

C. A facility of a common carrier, which is subject in whole or in part, to the provision of subchapter II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly

to subscribers unless the extent of such use is solely to provide interactive on-demand services;

D. An open video system that complies with Section 653 of the Cable Act;

E. Any facilities of any electric utility used solely for operating its electric utility system.

6. "Cablecast signal" means a nonbroadcast signal that originates within the facilities of the cable system.

7. "Cable service" means:

A. The one-way transmission to subscribers of video programming or other programming services; and

B. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

8. "Channel" or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

9. "Commence construction" means the time and date when construction of the cable communications system is considered to have commenced, which shall be when the first connection is physically made to a utility pole, or when the placement of cables underground is initiated, after preliminary engineering (including strand mapping) and after all necessary permits and authorizations have been obtained.

10. "Commence operation" means that time and date when operation of the cable communications system is considered to have commenced which shall be when sufficient distribution facilities have been installed so as to permit the offering of full services to at least 25% of dwelling units located within the franchise area.

11. "Commercial use channel" means the channel capacity designated for commercial use as defined and required by Federal law.

12. "Completion of construction" or "completion of rollout" means that point in time when all distribution facilities specified in the franchise agreement have been installed by the Grantee so as to permit the offering of cable service to all of the potential subscribers in the franchise area, as well as the provision, in an operational state, or any facilities required by the franchise agreement.

13. "Control" or "controlling interest" means actual working control or ownership of a West Branch cable system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or entity (except underwriters during the period in which they are offering securities to the public) of fifty percent (50%) or more of a West Branch cable system or the franchise under which the system is operated. A change in the control or controlling interest of an entity which has control or a controlling interest in a Grantee shall constitute a change in the control or controlling interest of the West Branch cable system under the same criteria.

14. "Converter" means an electronic device which converts signal carriers from one form to another.

15. "Dwelling unit" means any individual or multiple residential place of occupancy.

16. "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

17. "Franchise" means the right granted through a franchise agreement between the Grantor and a person by which the Grantor authorizes such person to erect, construct, reconstruct, operate, dismantle, test, use and maintain a cable system in the City.

18. "Franchise agreement" means a contractual agreement entered into between the Grantor and any Grantee hereunder which is enforceable by Grantor and said Grantee and which sets forth rights and obligations between Grantor and said Grantee in connection with the franchise.

19. "Franchise fee" means any assessment imposed hereunder by the Grantor on a Grantee solely because of its status as a Grantee. The term "franchise fee" does not include:

A. Any tax, fee, or assessment of general applicability (including any such tax for or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against Grantee);

B. Capital costs which are required by the franchise to be incurred by Grantee for educational or governmental access facilities;

C. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or

D. Any fee imposed under Title 17, United States Code.

20. "Grantee" or "applicant" means any person granted a franchise hereunder, its agents, employees, or subsidiaries.

21. "Grantor" means the City.

22. "Gross revenue (annual)" means all revenue received by the Grantee from subscribers from the operation of Grantee's cable system to provide cable service in the service area. Gross revenues include, without limitation, amounts for all cable service, including but not limited to basic service and tier service, premium and pay-per-view services, leased access, installation and all other revenues derived from the operation of Grantee's cable television system to provide cable services, adjusted for nonpayment. Gross revenues include late fees. Gross revenues shall not deduct the following:

A. Any operating expense;

B. Any accrual, including without limitation any accrual for commissions; or

C. Any other expenditures, regardless of whether such expense, accrual or expenditure reflects a cash payment, but revenue shall be counted only once in determining gross revenue.

Gross revenues also include the revenue of any affiliate, subsidiary, parent or any person or entity in which each Grantee has a financial interest, derived from the operation of the cable television system to provide cable services, to the extent such revenue is derived through any means that has the effect of avoiding the payment of franchise fees that would otherwise be paid to the Grantor. Revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest that represent a transfer of funds between them and that would constitute gross revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest shall be counted only once for purposes of determining gross revenues. Gross revenues shall not include any tax, fee, or assessment of general applicability collected by the Grantee from subscribers for pass through to a government agency, including the FCC user fee.

23. "Initial service area" means the area of the City which will receive service initially, as set forth in the franchise agreement.

24. "Installation" means the connection of the system from feeder cable to subscribers, terminals, and the initial provision of service.

25. "Leased access" means the use of the system by any business enterprise or other entity whether profit, nonprofit or governmental to render services to the citizens of the City, all use pursuant to Section 612 of the Cable Act.

26. "Local origination channel" means any channel where the Grantee or its designated agent is the primary programmer, and provides locally produced video programs to subscribers.

27. "Normal business hours," as applied to the Grantee, means those hours during which similar businesses in the City are open to serve customers.

28. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

29. "Public/Education/Government Access Facilities" or "PEG Access Facilities" means the total of the following:

A. Channel capacity designated for public, educational or governmental use; and

B. Facilities and equipment for the use of such channel capacity.

30. "Resident" means any person residing in the City as otherwise defined by applicable law.

31. "School" means any public or private elementary school, secondary school, junior college, college or university which conducts classes or provides instructional services and which has been granted a certificate of recognition by the State of Iowa.

32. "Service area" is synonymous with franchise territory as defined in this chapter.

33. "Service interruption" means the loss of picture or sound on one or more cable channels.

34. "Street" means the surface of and the space above and below any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway, driveway or other public way now or hereafter existing as such within the City.

35. "Subscriber" means any person who legally receives any one or more of the services provided by the system, has an account with the Grantee and has elected to receive service.

36. "West Branch Cable Television Commission" is an advisory body to the Council on matters pertaining to the cable system and telecommunications system within the City. (See Chapter 25 of this Code of Ordinances for specifics regarding this body.)

37. "Headend" means the starting point of the cable system and generally includes the electronic processing equipment and other appurtenances necessary to receive and process satellite delivered programming to the cable system.

38. "Video stream" means one channel of digital video as delivered to a subscriber. The channel of digital video is switched, allowing subscribers to select video programming from the program lineup they are subscribed to. Multiple video streams are required to allow multiple video programs to be viewed simultaneously at a subscriber's residence.

113A.07 SERVICE AREA.

1. Service to All Residents. Grantee shall offer cable television service to all areas of the City which are in the corporate limits of the City of West Branch and that meet the density requirements under subsection 2 of this section, on the effective date of this Franchise.

2. New Residential Construction. Grantee shall extend service to all new residences in all unwired developments within six months of a request of a subscriber in an area to be served by underground construction and within three months of a request of a subscriber for areas to be served aerially, whenever density of at least eight (8) residential dwelling units per 1320 cable plant feet (one-quarter mile), as measured from the existing facilities of Grantee's cable system in the franchise area. For purposes of this section, density per cable mile shall be computed by dividing the number of residential dwelling units in the area by the length, in miles or fractions thereof, of the total length of aerial or underground cable necessary to make service available to the

residential dwelling units in such area in accordance with Grantee's system design parameters. The cable length shall be measured from the nearest point on the then-existing system. The total cable length shall exclude the drop cable necessary to serve individual subscriber premises.

3. Service Area. The service area of Grantee shall be the entire corporate boundaries of the City of West Branch and includes any areas annexed to the City in the future.

4. Commercial Service. Grantee shall, upon request, make service available to all commercial/industrial establishments served aerially which are located within 125 feet of the system.

5. House Moving. Grantee shall, upon the request of the City, move and replace its facilities to accommodate house moves conducted on behalf of the City, at a time and material cost to the City. Wherever feasible, the City shall use its best efforts to ensure that house moves follow the same or similar path. The Grantee shall have the right to require advance payment from non-municipal entities requesting relocation of Grantee's facilities to allow for movement of structures.

113A.08 SYSTEM AND CAPACITY.

1. System. The parties understand and agree that Grantee shall design, install and operate the cable system to provide a minimum capacity of 110 channels utilizing new and existing copper plant. Each subscriber drop shall be designed to provide a minimum of two (2) video streams into each residence. The system will be designed to be capable of interconnecting with systems owned by Grantee or affiliated entities.

2. Construction Timetable. The system shall be designed and operated in accordance with the Ordinance and applicable State and Federal regulations. Grantee shall have a reasonable period of time to complete its service rollout throughout the franchise area.

3. Drop Maintenance. Grantee shall maintain and replace subscriber drops during its normal operation of the cable system that do not meet the standards of the National Electric Code. The cable system shall be designed to allow each subscriber's drop to provide a minimum of two (2) video streams.

4. Construction Oversight. Grantee will inspect 100% of all copper, fiber and coaxial cable to insure that it meets the specifications of the Ordinance and this Franchise. The Grantee shall designate an employee to act as a company representative for responding to public service

complaints on a daily basis during the service rollout and provide the City with the person's name and telephone number.

5. Compliance with Applicable Law. In constructing, operating and maintaining the system, Grantee shall at all times comply with all lawful requirements of the Ordinance and all applicable laws and regulations.

6. Equipment Quality. Equipment used for the distribution system, headend and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis.

7. Converters. All programming services exclusively offering adult rated programming shall provide picture and audio scrambling of services not purchased by a specific subscriber.

8. Emergency Alert. Grantee shall comply with all current and subsequent Federal Communications Commission Emergency Alert System rules and regulations.

9. Test Equipment. Throughout the term of the Franchise, Grantee shall have accessible to West Branch within a 24-hour period adequate test equipment to troubleshoot system problems and monitor system performance as required by this Franchise and applicable FCC regulations.

10. Ongoing Preventive Maintenance. Grantee will comply with the preventive maintenance program. It is the Grantee's responsibility to make sure that the cable system in the City is tested and all detected leaks are repaired within the time periods set forth in FCC regulations.

11. Satellite Earth Station. The system configuration shall include earth stations if necessary to ensure the ability to receive signals from operational communications satellites that predominately carry programming services available to cable systems throughout the life of the Franchise.

12. Standby Power. Grantee shall provide suitable standby power-generating capacity at the master headend upon completion of the upgrade and interconnection to a master headend facility.

13. Parental Control Devices. Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The cost to subscribers for parental control devices is subject to FCC regulation.

14. Performance Testing. Grantee shall perform all system tests and maintenance procedures as required by and in accordance with: the FCC; Franchise; Ordinance; Grantee's standards of good operating practice; and the National Cable Television Association's test procedure guidelines.

15. Technical Standards. The cable communications system permitted to be operated hereunder shall be installed and operated in conformance with the FCC rules and regulations. Any FCC technical standards or guidelines related to the cable communications system and facilities shall be deemed to be regulations under this Franchise. In any case where the cable system, because of its basic design, is not able to comply with one or more of the FCC technical standards, or technical standards imposed by this Franchise or the Ordinance, Grantee shall provide subscribers with an equivalent level of good quality service as mutually agreed to by both the Grantee and the Grantor. At such time as the FCC does not regulate technical standards, Grantee will continue to comply with the FCC standards which were in effect on the effective date of this Franchise, unless such compliance becomes commercially or technically impracticable.

16. Employee Identification. Grantee shall provide a standard identification document to all employees, including employees of subcontractors, who will be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, Grantee shall use its best efforts to clearly identify all field personnel, vehicles, and other major equipment that are operating under the authority of Grantee.

17. Stereo. The Grantee shall be encouraged to provide Broadcast Television Systems Committee (BTSC) stereo signals where commercially and technically practicable.

113A.09 CONSTRUCTION.

1. System Design Review. The City shall have the authority to review the technical plans of the system to ensure that the system meets the requirements of City Code governing construction within public rights-of-way and applicable placement standards. Grantee shall provide the following information: a strand map identifying the location of cable plant in the rights-of-way and contact engineer who will be available to discuss project details. Grantee may use existing copper plant which meets Grantee's technical specifications. In cases where the cable does not meet such specifications, Grantee shall replace the cable and shall

use its best efforts to minimize disruption to affected subscribers. The City shall protect the proprietary system design information submitted by Grantee. The Grantee shall send the information to the location specified by the City as such maps are available to the Grantee. Grantee's regional engineer will review the design with City designated persons.

The City understands and agrees that all information, documentation, and material disclosed or made available to the City by Grantee or its agents, in whatever form, relating to the business and affairs of Grantee, including, without limitation, any oral, written or computer-based information, and any knowledge gained through observation of Grantee's records or facilities ("Confidential Information"), if proprietary and confidential and that Grantee will suffer great loss and irreparable harm if the City, or its agents, or employees improperly use the such information or disclose it to Grantee's competitors, potential competitors or other third parties. The City understands and agrees that any Confidential Information provided to or reviewed by the City under this Franchise shall remain the sole and exclusive property of Grantee and shall not be copied or reproduced by the City without Grantee's prior consent. The City acknowledges that the Confidential Information covered by this section is comprised of trade secrets which are recognized and protected as such by law. As legally protected trade secrets, such materials are specifically exempt from disclosure by statute and must be withheld from public inspection as "confidential records" under Iowa's Open Records Law. Confidential Information disclosed pursuant to this Franchise shall not be disclosed to any third party unless disclosure is required by a court of competent jurisdiction or comparable legal authority.

2. Permitting. The Grantee shall follow the permitting process as specified by City Code.

3. Underground Construction. Grantee shall participate in and use Iowa One Call to the extend that State law requires participation. Grantee shall bury underground cable at a minimum depth of twelve (12) inches. Temporary drops will be buried within one month of installation, weather permitting.

4. Consumer Compatibility. Grantee shall comply with FCC consumer compatibility rules and guidelines. The basic tier of service shall be offered in a format compatible with FCC regulations.

5. Conversion. Subscribers shall not be charged by Grantee for conversion from the existing system to any new system constructed by Grantee. In the event that special additional or customized equipment is

requested by any subscriber or is required to provide such service to any subscriber, Grantee may charge the subscriber for such equipment. Grantee will notify subscribers and the public in general of any cutover, using a combination of at least two of the following: bill stuffers, direct mail, news releases, radio announcements, CSR training, and community bulletin board announcements.

113A.10 SYSTEM SERVICES AFTER ROLLOUT.

1. Initial Residential Subscriber Services. During the initial rollout period, Grantee shall provide the same or similar programming as it will provide on the system upon completion of the rollout.

2. Additional Services. Upon completion of the rollout, Grantee shall provide a good mix of entertainment and information programming generally available to the cable television industry, taking into account the needs and interest of the population of the City of West Branch and the cost of the programming.

3. Leased Access Channels. Grantee shall offer leased access channels at such terms and conditions and rates as may be negotiated with each lessee subject to the requirements of Section 612 of the Cable Act.

4. Cable Drops and Monthly Service. Grantee shall provide one free cable drop and free, basic and expanded basic service, excluding premium services, audio services, pay-per-view, etc., to all current and future public buildings, included but not limited to, City Offices, Municipal Town Hall, Public Library, public schools, Herbert Hoover National Historic Site, Herbert Hoover Presidential Library - Museum locations that are located in the service area. All non-premium programming shall be transmitted to all of these locations on the cable system, free of charge. The Grantor shall pay all installation costs for future public buildings where the drop length exceeds 150 feet or where installation costs exceed normal and customary installation costs necessary to provide service in a residential area. The Grantor shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of cable service required by this subsection.

5. Closed Captioning. Grantee shall pass through all closed-circuit signals received by the system for the hearing impaired and all audio encoded signals received by the system for the visually impaired.

113A.11 ACCESS CHANNELS, EQUIPMENT, FACILITIES, AND SERVICES. In order to develop and promote public, educational, and

government access programming for the system's access channels, Grantee hereby agrees to provide the following:

1. Access Channels. Grantee shall provide one access channel dedicated to Public, Educational and/or Government programming. The access channel will be delivered to all subscribers, regardless of whether their service address is within the City limits. The Grantor agrees to indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the use of the Grantee's Channel for PEG by the Grantor or its designee.

2. Local PEG Capital Support Fee. As soon as practicable after the date of this Franchise, but in no event later than 120 days, the City and the Grantee shall provide for the assessment and collection of a $0.35 per subscriber/per month local programming fee as follows:

A. Representatives of the City and the Grantee shall develop a joint notice to subscribers that describes the purpose of the fee and the City's plans for the proceeds from the fee.

B. Within 45 days after the delivery of the joint notice to subscribers, Grantee shall adjust its monthly bills to include the $0.35 per subscriber fee as a separate line item on subscriber bills. The fee shall be calculated from and applied to only those subscribers whose service address is within the City limits.

C. On a quarterly basis thereafter, Grantee shall pay to the City the equivalent of $0.35 per subscriber per month, adjusted for non-payment.

D. The PEG Capital Support Fee shall be identical to the PEG Capital Support Fee assessed on the operations of other cable franchisees operating in the City. The fee may be adjusted for inflation on the same schedule and in the same manner as the City uses in fixing the PEG Capital Support Fee of the incumbent franchisee or additional competitive franchisees operating in the City.

E. The City shall use the proceeds of the fee for capital support of PEG access programming. The term *capital* shall be defined in accordance with applicable law.

F. Within 15 months after the initial assessment of the fee, the City shall complete a review of the fee. After the initial review, the City may conduct similar reviews periodically at its discretion. A review shall include an opportunity for public comment on matters relating to the fee. After a review, if the City determines

that collection of the fee is no longer necessary or desirable for the support of PEG programming, the City shall notify Grantee that it will cease assessing the fee and that payment of the fee to the City is no longer required.

G. The City shall indemnify and hold the Grantee harmless from any claims by any person that the PEG Capital Support Fee violates applicable law. The Grantor and Grantee agree to follow the rules and regulations of the FCC regarding PEG capital funding in the event that the PEG Capital Support Fee is determined by a court of competent jurisdiction to violate applicable law.

3. Signal Quality. Grantee shall assure that the access channel delivery system from the Community Television Facility and all other origination points specified herein meet the same technical standards as the remainder of the system.

4. Treatment. The Grantee will provide the City with notice of the content and format of any separate line item on the monthly bill related to local programming.

5. Origination Sites. The Grantee shall provide and maintain throughout the franchise term active origination lines from the Community Television Facility in the West Branch Library, the West Branch Municipal Building, the West Branch High School Auditorium, and the West Branch Municipal Offices from which local programming can be originated on the cable system. The origination line from the Community Television Facility will be served by Grantee's copper network immediately upon commencement of the rollout, with fiber optic connections to the Municipal Building, High School Auditorium, and the West Branch Municipal offices being activated no later than 120 days following the completion of the rollout. The Grantee shall provide the necessary equipment to originate video programming from the Community Television Facility and one other origination site.

6. Second PEG Access Channel. The Grantee shall provide a 2nd channel dedicated for PEG access after the completion of the rollout and upon request of the City, if the access channel provided under this section is proven with documentation to be in use 80% of the cablecast week for any 6 week consecutive timeframe for at least 12 hours per day, 7 days per week with unduplicated locally originated programming. Programming consisting primarily of text messages shall not be included in calculating PEG access use. In no event shall the Grantee be required to provide more than 2 access PEG channels.

7. PEG Equipment Matching Capital Grant. The Grantee will provide the City with an unqualified grant of $5,000 for capital purchases for PEG Access Facilities to be disbursed in five (5) annual grant payments of $1,000 each year commencing in 2005 and continuing through the term of the Franchise. The annual grant payments shall be delivered to the City no later than September 30 of each year. Upon request, the City shall provide documentation to Grantee that funds allotted under this section were expended on PEG Access Facilities.

113A.12 SUBSCRIBER INFORMATION AND POLICY.

1. The Grantee shall provide subscriber information in accordance with 47 U.S.C. § 551, as it may be amended. Thereafter, Grantee shall provide subscribers with privacy information and other information, as required by FCC regulations, as amended. Such subscriber information shall be filed with the City concurrent with distribution to subscribers.

2. Grantee shall also provide a locally listed telephone number in a locally provided telephone directory, and other equipment, as needed within the area, to ensure timely, efficient and effective service to consumers and for the purpose of receiving inquiries, requests and complaints concerning all aspects of the construction, installation, operation, and maintenance of the system.

3. Subscriber Complaints. Pursuant to the Ordinance, Grantee shall promptly respond to all subscriber complaints. Grantee shall maintain a record of all subscriber complaints received and make these available to the City upon written request on a monthly basis. Records should include the date the complaint was received, the nature of the complaint, what action was taken by the Grantee to remedy the complaint, and the date action was dispensed. Grantee shall not provide any personally identifiable subscriber information to the City and shall comply with Section 631 of the Cable Act at all times. Nothing herein shall require Grantee to maintain or repair any equipment not provided by it.

4. Major Outages. Grantee shall maintain records of all major outages defined as a discontinuation of cable service from one or more fiber nodes in the City of West Branch. Such records shall indicate the estimated number of subscribers affected, the date and time of first notification or of Grantee knowledge of the outage, the date and time service was restored, the cause of the outage and a description of the corrective action taken. Such records shall be provided to the City on a monthly basis upon request. Upon written request of the City, a

statistical summary of such records shall be prepared by Grantee and submitted to the City annually.

5. Customer Handbook. Grantee shall provide written customer policies or a handbook to all new subscribers and, thereafter, upon request. Grantee's written customer policies or handbook shall, at a minimum, comply with all notice requirements in the Ordinance and those promulgated by the FCC. If Grantee's operating rules are changed, subscribers shall be notified in a timely manner. Rate and consumer complaint procedures will be distributed annually to subscribers. Grantee shall file a consumer handbook with the City annually.

6. FCC Standards for Customer Service. Grantee shall meet the FCC's Standards for Customer Service. If Grantee does not meet such standards for two (2) consecutive months, the Grantee shall take corrective action to ensure compliance in subsequent months. At such a time as the FCC no longer promulgates customer service standards, the FCC standards in effect on the effective date of this Franchise will be in force.

7. Downgrades. Subscribers shall have the right to have cable service downgraded in accordance with FCC rules. A downgrade in service shall be made as soon as practical and adjustment in billings shall be effective upon subscriber's notification of a desire to downgrade service. Refunds of unused service charges shall be paid or credited to subscriber bills within forty-five (45) days from the termination of service or downgrade in service. The Grantee shall provide a message explaining when any downgrade fees or charges may apply to customer accounts.

8. Outages. Grantee shall credit subscribers for verifiable outages of six (6) hours or more for levels of service affected by such outages upon the request of the subscribers affected.

9. Subscriber Contracts. All contracts between Grantee and subscribers shall be in compliance with the Ordinance and the Franchise. Grantee shall file a copy of all standard form subscriber contracts with the City annually.

10. Payment Stations. Grantee shall maintain a payment drop station at conveniently located drop sites in West Branch for the duration of the franchise.

11. Repair Calls. Grantee shall offer subscribers repair service appointments in four-hour windows. The Grantee shall endeavor to

telephone the subscriber prior to arriving for a repair call. Grantee will conduct repair calls on weekdays and Saturdays.

12. Installation. Subscriber service shall be installed within seven days of a request during normal operating conditions.

13. Administrative Fee and Disconnects. Administrative fees are charged on any accounts which have not been paid prior to the next billing cycle. Disconnection of accounts due to non-payment occurs no sooner than after 45 days of due date. Disconnection of accounts due to non-payment shall not occur sooner than 45 days of due date. Grantee shall endeavor to notify subscribers of the amount due Grantee and Grantee's intent to disconnect service for non-payment a minimum of seven (7) business days prior to disconnection.

14. Subscriber Bill. Grantee shall include its name, address, and telephone number on the subscriber bill and the portion of the bill retained by the subscriber. Grantee shall comply with FCC rules regarding the listing of the Franchising Authority's address and telephone number on subscriber bills.

113A.13 NON-DISCRIMINATION. Grantee agrees that it shall not discriminate in providing service to the public nor against any employee or applicant for employment because of race, color, creed, religion, sex, disability, gender identity, national origin, age, sexual orientation, or marital status. In the employment of persons, Grantee shall fully comply with applicable local, State and Federal law.

113A.14 RATES. The City shall have the ability to regulate rates in accordance with Federal law.

113A.15 FRANCHISE RENEWAL. Subject to 47 U.S.C. § 546, as amended, this Franchise may be renewed by the City in accordance with the Ordinance.

113A.16 POLICE POWERS. In accepting this Franchise, Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general Ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws and Ordinances enacted by the City pursuant to such power.

113A.17 FRANCHISE FEE AND PERFORMANCE BOND.

1. Franchise Payments. Grantee shall pay to the City a franchise fee of five (5%) percent of gross annual revenues during the period of its

operation under the Franchise, pursuant to the provisions of the Ordinance.

2. The Grantor may request an increase in franchise fees at any time during the term of the Franchise, equal to the maximum allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the Grantor shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

3. Bonds and Security Funds. In consideration of Grantee's local presence and established service record, the City agrees to waive any bond and/or security fund requirement that might otherwise be imposed under the Ordinance. This waiver shall be nonassignable and shall in no way limit the liability of Grantee for any failure to perform its obligations concerning design, installation and operation of a cable system under this Franchise Agreement.

113A.18 REGULATION.

1. The City shall exercise appropriate regulatory authority under the provisions of the Ordinance and this Franchise. Regulation may be exercised through any duly designated City office or duly established Board or Commission or other body of the City. In all cases, however, the Grantee shall have the right to request that any regulation by the City shall be performed by the City Council of West Branch.

2. Grantee, by accepting the rights hereby granted, agrees that it will perform and keep all lawful acts and obligations imposed, represented or promised by the provisions of this Franchise.

113A.19 REMEDIES.

1. Schedule of Liquidated Damages. Because Grantee's failure to comply with certain material provisions of this Agreement and the Ordinance will result in injury to the City or to subscribers, and because it will be difficult to estimate the extent of such injury, the City and Grantee hereby agree that the liquidated damages and penalties stated in the Ordinance represent both parties' best estimate of the maximum possible damages resulting from the specified injury. The parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted

in no or minimal negative impact of the subscribers within the service area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or subscribers.

2. Violations. For the violation of any of the following, the City shall notify Grantee in writing of the violation. The City shall provide Grantee with a detailed written notice of any Franchise violation upon which it proposes to take action, and there shall be a thirty (30) day period within which Grantee may demonstrate that a violation does not exist or cure an alleged violation or, if the violation cannot be corrected in thirty (30) days, submit a plan satisfactory to the City to correct the violation. If an alleged violation is proven to exist, following a duly noticed public hearing, and no cure or action on a plan acceptable to the City has been received by the City within thirty (30) days, such liquidated damages shall be tendered by Grantee within thirty (30) days. Grantee may petition the City Council for relief with just cause. The imposition of liquidated damages shall not preclude the City from exercising the other enforcement provisions of the Franchise, including revocation, or other statutory or judicially imposed penalties. Liquidated damages may be imposed as follows:

A. For failure to complete construction or extend service in accordance with Franchise: $150/day for each day the violation continues.

B. For failure to comply with requirements for public, educational and government access: $100/day for each day the violation continues.

C. For failure to submit reports, maintain records, provide documents or information: $100/day for each day the violation continues.

D. For violation of customer service standards required by this Franchise, the Ordinance, or by FCC regulation: $100/day per standard violated.

E. For violation of the books and financial records provisions of this Franchise and the Ordinance: up to $100/day for each day the violation continues.

F. For violation of other material provisions of this Franchise or the Ordinance: up to $100/day for each day the violation continues.

113A.20 REVOCATION.

1. Grounds for Revocation. If the Grantee has been given due notice and a reasonable opportunity to cure, the Grantor reserves the right to revoke any Franchise granted hereunder and rescind all rights and privileges associated with the Franchise in the following circumstances, each of which shall represent a default under this Ordinance and a material breach of the Franchise:

A. If the Grantee shall default in the performance of any of its material obligations under this Ordinance or under such documents, agreements and other terms and provisions entered into by and between the Grantor and the Grantee, subject to the provisions on cure.

B. If the Grantee should fail to provide or maintain in full force and effect, the liability and indemnification coverage as required herein.

C. If the Grantee ceases to provide service for a period exceeding thirty (30) days for any reason within the control of the Grantee over the cable system, or abandons the management and/or operation of the system.

D. If the Grantee willfully violates any of the material provisions of this Franchise Agreement or the Ordinance or attempts to practice any fraud or deceit upon the Grantor.

E. If the Grantee becomes insolvent, or upon listing of an order for relief in favor of Grantee in a bankruptcy proceeding.

F. If the Grantee transfers a controlling interest of the Franchise without the prior approval or consent of the Grantor as required in Section 117.07 of this Code of Ordinances.

2. Procedure Prior to Revocation.

A. The Grantor shall make a written demand that the Grantee comply with any requirements, limitations, terms, conditions, rules or regulations or correct any action deemed cause for revocation. Such written demand shall detail the exact nature of the alleged noncompliance and shall provide the Grantee with 90 days in which to correct the alleged noncompliance. In the event the stated violation is not corrected to the City's satisfaction within said 90 days, the Grantor shall schedule a public hearing and notify the Grantee in writing of said public hearing.

B. At the scheduled public hearing, the Grantor shall hear any persons interested therein and shall provide the Grantee with an opportunity to provide testimony and evidence. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Grantor, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the Grantor shall determine whether or not the Franchise shall be revoked. If the Grantor determines that the Franchise shall be revoked, the Grantor shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

C. If the Grantor determines that the Grantee has willfully committed a material breach, then the Grantor may, by resolution, declare the Franchise terminated. Alternatively, the Grantor may, at its option, direct the Grantee to take appropriate remedial action within such time and under such terms and conditions as the Grantor may prescribe in order to avoid termination of the Franchise.

113A.21 PROCEDURES ON TERMINATION.

1. Disposition of Facilities. Subject to Federal, State and local laws, in the event a Franchise expires, is revoked, or otherwise terminated, the Grantor may order the removal of the above-ground system facilities from the franchise area within a reasonable period of time as determined by the Grantor or require the Grantee to maintain and operate its cable system for a period not to exceed twenty-four (24) months as indicated in (4) below.

2. Restoration of Property. In removing its plant, structures, and equipment, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its

plant, structures and equipment without affecting the electrical or telephone cable wires, or attachments. The Grantee's insurance and indemnity obligations required by this Franchise Agreement and by the Ordinance, shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this section.

3. Restoration by Grantor; Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required by Subsection 1 above and/or Subsection 2 above, or any other work required by Grantor by law or ordinance, within thirty (30) days after receipt of written notice, and to the satisfaction of the Grantor, the Grantor may cause such work to be done and the Grantee shall reimburse the Grantor the cost thereof within thirty (30) days after receipt of an itemized list of such costs. The Grantor shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

4. Extended Operation. Subject to Federal, State and local law, upon either the expiration or revocation of a franchise, the Grantor may require the Grantee to continue to operate the cable system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor in interest, continue to operate the cable communications system under the terms and conditions of this Franchise Agreement and the Ordinance.

5. Grantor's Rights not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the Grantor under any provision of law.

113A.22 COOPERATION. The parties recognize that it is within their mutual best interests for the cable television system to be operated as efficiently as possible in accordance with the requirements set forth in this Agreement. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the person or agents specified herein to facilitate the particular action requested.

113A.23 WAIVER. The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

113A.24 NO LIABILITY. Nothing herein shall be deemed to create civil liability by one party for action, omissions or negligence of the other party, or of a party's agents, employees, officers or assigns. Each party shall be solely liable for claims against it by third parties, whether arising under the Cable Act or under any other provision of law.

113A.25 NOTICES. All notices from Grantee to the City pursuant to this Agreement shall be sent to the following address for the conduct of matters related to the Franchise. All notices to the City should be sent to: City Administrator, City of West Branch, 304 E. Main St., P.O. Box 218, West Branch, Iowa 52358. All notices to Grantee from the City shall be sent to this address: 413 North Calhoun Street, West Liberty, Iowa 52776.

113A.26 CAPTIONS. Captions to sections throughout this Franchise are solely to facilitate the reading and reference to the sections and provisions of the Agreement. Such captions shall not affect the meaning or interpretation of the Agreement.

113A.27 NO JOINT VENTURE. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner which would indicate any such relationship with the other.

113A.28 ENTIRE AGREEMENT. This Agreement and all attachments hereto, and the Ordinance and all attachments thereto, as incorporated herein, represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only as provided by mutual agreement.

113A.29 SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement, except as provided for in the Ordinance.

113A.30 FORCE MAJEURE. Any delay, preemption, or other failure to provide cable service and to perform other duties contained in the Ordinance and this Franchise Agreement by the Grantee caused by factors beyond the Grantee's control, such as acts of God, labor disputes, non-delivery by program suppliers, war, riots, government order or regulation, shall not result in a breach

of the terms of this Franchise Agreement and the Ordinance. Grantee shall exercise its reasonable efforts to cure any such delays and the cause thereof, and performance under the terms of this Franchise Agreement and the Ordinance shall be excused by Grantor, for the period of time during which such factors continue.

113A.31 EQUAL PROTECTION. In the event the Franchising Authority enters into or renews a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and public ways for the purpose of constructing or operating a cable television system, or providing cable television service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

EDITOR'S NOTE

Ordinance No. 579 adopting a cable TV franchise for the City was passed and adopted on March 7, 2005. The franchise shall expire on March 8, 2010. West Liberty Telephone Company d/b/a Liberty Communications accepted the franchise on March 14, 2005.

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CHAPTER 114

CABLE TELEVISION
CUSTOMER SERVICE STANDARDS

114.01 Enforcement of Customer Service Standards
114.02 Notification
114.03 Rules and Procedures
114.04 Penalty

114.01 ENFORCEMENT OF CUSTOMER SERVICE STANDARDS. The City has the legal authority to adopt and enforce customer service standards for the cable television system in the City as permitted by the Cable Television Consumer Protection and Competition Act of 1992. Upon review of the customer service standards adopted by the FCC on March 11, 1993, by MM Docket No. 92-263 of the FCC, and deeming it in the best interests of the City, the Council hereby adopts by reference the above mentioned customer service standards for cable television service.

114.02 NOTIFICATION. The Clerk shall notify the Cable Operator by registered mail with return receipt that the City has adopted said customer service standards for cable television service, to become effective upon written notification to Cable Operator.

114.03 RULES AND PROCEDURES. The Cable Commission appointed by the Council shall establish rules and procedures regarding the process to remedy possible violations of the customer service standards by the Cable Operator. The Commission shall provide for notice and opportunity for hearing for both the customers and the Cable Operator in such process.

114.04 PENALTY. If after notice and opportunity for hearing, the City determines that the Cable Operator is not in complete compliance with all the provisions of the customer service standards, the Cable Operator shall reduce the rate for the basic tier of cable service by twenty-five percent (25%) until such time that the City has been satisfied that the Cable Operator is in compliance with all the provisions of the customer service standards. In addition, the Cable Operator shall pay to the City the sum of $100.00 for each day that the Cable Operator fails to be in compliance with all the provisions of the standards after the date that the Council has passed a resolution stipulating the sections where the Cable Operator is in noncompliance.

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CHAPTER 115

REGULATION OF CABLE TELEVISION RATES

115.01 Authority
115.02 Rate Regulation Proceedings
115.03 Certification
115.04 Notice of Rate Change
115.05 Delegation of Power

115.01 AUTHORITY. The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 *et. seq.*, as they currently read and hereafter may be amended, which are herewith incorporated by reference.

115.02 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362.3 of the Code of Iowa and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.

2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.

3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may

delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.

4. In the course of the rate regulation proceeding, the City may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by the City to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rate or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

115.03 CERTIFICATION. The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

115.04 NOTICE OF RATE CHANGE. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

115.05 DELEGATION OF POWER. The City may delegate its powers to enforce this chapter to municipal employees or officers (the "cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;

7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and

9. Take actions and make decisions or recommend decisions in conformity with this chapter.

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CHAPTER 116

CEMETERY

116.01 Definition
116.02 Supervision of Openings
116.03 Duties of Superintendent
116.04 Records
116.05 Sale of Lots
116.06 Perpetual Care
116.07 Rules and Regulations
116.08 Trespassing or Vandalism in Cemetery

116.01 DEFINITION. The term "cemetery" means the West Branch Cemetery, which is a municipal cemetery under the provisions of Sections 566.14 to 566.18 of the Code of Iowa.

116.02 SUPERVISION OF OPENINGS. A representative of the Public Works Department will supervise the opening of all graves and be present at every interment in the cemetery.

116.03 DUTIES OF SUPERINTENDENT. A representative of the Public Works Department will handle the duties of the cemetery superintendent and is responsible for the maintenance of the cemetery buildings, grounds and equipment and shall make an annual report of the cemetery operation to the Council at budget time.

116.04 RECORDS. It is the duty of the Deputy Clerk to make and keep a permanent record of all interments made in the cemetery, which record shall at all times be open to public inspection. The record shall, among other things, include:

1. Plat. An accurate plat of the cemetery;

2. Lot Owners. The names of the owners of all lots that have been sold;

3. Lot Descriptions. The correct description of all lots for sale and the price thereof, as shall be fixed by the City Council;

4. Grave Locations. The exact location of each grave upon each cemetery lot.

116.05 SALE OF LOTS. The sale of lots in the cemetery shall be evidenced by a deed signed and executed by the Mayor and the Deputy Clerk for and on behalf of the City, and it is the duty of the Deputy Clerk to collect the purchase price for any lot sold before delivering the deed of conveyance for the same. The payment of all fees and charges shall be made at the office of the Deputy Clerk where receipts will be issued for all amounts paid. Said fees and charges

shall be based upon the charges as set out in the rules and regulations then in effect as adopted by the Council.

116.06 PERPETUAL CARE. A portion of the sale price as specified by the rules and regulations established by the Council shall be set aside and deposited in the perpetual care endowment fund of the cemetery. The Council, by resolution, shall also receive and expend all moneys and property donated or bequeathed for perpetual care. The assets of the perpetual care fund shall be invested as permitted by State law. The City shall use the income from such investments in caring for the property of the donor or lot owner or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of a cemetery lot.

(Code of Iowa, Sec. 566.14, 566.15 and 566.16)

116.07 RULES AND REGULATIONS. The Rules and Regulations of the West Branch Municipal Cemetery shall be adopted, and may be amended from time to time, by resolution of the Council and shall cover the hours of opening and closing, the use of roads within the cemetery, the hours for burials, the decorating of graves, the fees for services rendered in connection with interments or the placing of markers and the cost of lots or payments for perpetual care as deemed necessary.

116.08 TRESPASSING OR VANDALISM IN CEMETERY. Any person who trespasses upon any cemetery under the jurisdiction of the City by destroying, injuring or defacing any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to the cemetery is guilty of a misdemeanor and liable for any and all damage.

(Code of Iowa, Sec. 716.1)

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CHAPTER 117

CABLE TELEVISION REGULATORY AND FRANCHISE ENABLING ORDINANCE

117.01 Definitions
117.02 Intent
117.03 Franchise Territory
117.04 Police Power
117.05 Grant of Franchise
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117.01 DEFINITIONS. The following words shall have the meaning set forth in this section unless the context clearly requires otherwise:

1. "Access channel" means any channel used as an access channel as defined in the Cable Communications Policy Act of 1984 (47 USC 521 *et seq.*) as amended by the Cable Television Consumer Protection and Competition Act of 1992 and the Cable Television Act of 1996 (the Act).

2. "Basic cable service" means any service tier which includes, at a minimum, the transmission of local television broadcast signals, and local access channels.

3. "Basic cable equipment" means the equipment used by subscribers to receive the basic service tier, including, but not limited to, converter boxes, remote controls, connections for additional television sets and cable home wiring.

4. "Broadcast services" means a broad category of programming that is received from broadcast television and is capable of being received in the City.

5. "Cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service, which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. A facility that serves only subscribers without using the public right-of-way;

C. A facility of a common carrier, which is subject in whole or in part, to the provision of subchapter II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extend of such use is solely to provide interactive on-demand services;

D. An open video system that complies with Section 653 of the Cable Act;

E. Any facilities of any electric utility used solely for operating its electric utility system.

6. "Cablecast signal" means a nonbroadcast signal that originates within the facilities of the cable system.

7. "Cable service" means:

A. The one-way transmission to subscribers of video programming or other programming services; and

B. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

8. "Channel" or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

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9. "Commence construction" means the time and date when construction of the cable communications system is considered to have commenced, which shall be when the first connection is physically made to a utility pole, or when the placement of cables underground is initiated, after preliminary engineering (including strand mapping) and after all necessary permits and authorizations have been obtained.

10. "Commence operation" means that time and date when operation of the cable communications system is considered to have commenced which shall be when sufficient distribution facilities have been installed so as to permit the offering of full services to at least 25% of dwelling units located within the franchise area.

11. "Commercial use channel" means the channel capacity designated for commercial use as defined and required by Federal law.

12. "Completion of construction" means that point in time when all distribution facilities specified in the franchise agreement have been installed by the Grantee so as to permit the offering of cable service to all of the potential subscribers in the franchise area, as well as the provision, in an operational state, or any facilities required by the franchise agreement.

13. "Control" or "controlling interest" means actual working control or ownership of a West Branch cable system in whatever manner exercised. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or entity (except underwriters during the period in which they are offering securities to the public) of fifty percent (50%) or more of a West Branch cable system or the franchise under which the system is operated. A change in the control or controlling interest of an entity which has control or a controlling interest in a Grantee shall constitute a change in the control or controlling interest of the West Branch cable system under the same criteria.

14. "Converter" means an electronic device which converts signal carriers from one form to another.

15. "Dwelling unit" means any individual or multiple residential place of occupancy.

16. "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

17. "Franchise" means the right granted through a franchise agreement between the Grantor and a person by which the Grantor

authorizes such person to erect, construct, reconstruct, operate, dismantle, test, use and maintain a system in the City.

18. "Franchise agreement" means a contractual agreement entered into between the Grantor and any Grantee hereunder which is enforceable by Grantor and said Grantee and which sets forth rights and obligations between Grantor and said Grantee in connection with the franchise.

19. "Franchise fee" means any assessment imposed hereunder by the Grantor on a Grantee solely because of its status as a Grantee. The term "franchise fee" does not include:

A. Any tax, fee, or assessment of general applicability (including any such tax for or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against Grantee);

B. Capital costs which are required by the franchise to be incurred by Grantee for educational or governmental access facilities;

C. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, consulting or legal costs, indemnification, penalties or liquidated damages; or

D. Any fee imposed under Title 17, United States Code.

20. "Grantee" or "applicant" means any person granted a franchise hereunder, its agents, employees, or subsidiaries.

21. "Grantor" means the City.

22. "Gross revenue (annual)" means all revenue received by the Grantee from subscribers from the operation of Grantee's cable system to provide cable service in the service area. Gross revenues include, without limitation, amounts for all cable service, including but not limited to basic service and tier service, premium and pay-per-view services, leased access, installation and all other revenues derived from the operation of Grantee's cable television system to provide cable services, adjusted for nonpayment. Gross revenues include late fees. Gross revenues shall not deduct the following:

A. Any operating expense;

B. Any accrual, including without limitation any accrual for commissions; or

C. Any other expenditures, regardless of whether such expense, accrual or expenditure reflects a cash payment, but revenue shall be counted only once in determining gross revenue.

Gross revenues also include the revenue of any affiliate, subsidiary, parent or any person or entity in which each Grantee has a financial interest, derived from the operation of the cable television system to provide cable services, to the extend such revenue is derived through any means that has the effect of avoiding the payment of franchise fees that would otherwise be paid to the Grantor. Revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest that represent a transfer of fund between them and that would constitute gross revenues of both Grantee and an affiliate, subsidiary, parent or any person or entity in which the Grantee has a financial interest shall be counted only once for purposes of determining gross revenues. Gross revenues shall not include any tax, fee, or assessment of general applicability collected by the Grantee from subscribers for pass through to a government agency, including the FCC user fee.

23. "Initial service area" means the area of the City which will receive service initially, as set forth in the franchise agreement.

24. "Installation" means the connection of the system from feeder cable to subscribers, terminals, and the initial provision of service.

25. "Leased access" means the use of the system by any business enterprise or other entity whether profit, nonprofit or governmental to render services to the citizens of the City, all use pursuant to Section 612 of the Cable Act.

26. "Local origination channel" means any channel where the Grantee or its designated agent is the primary programmer, and provides locally produced video programs to subscribers.

27. "Normal business hours," as applied to the Grantee, means those hours during which similar businesses in the City are open to serve customers. In all cases, normal business hours must include some evening hours at least one night per week, and/or some weekend hours.

28. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to,

natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

29. "Public/Education/Government Access Facilities" or "PEG Access Facilities" means the total of the following:

A. Channel capacity designated for public, educational or governmental use; and

B. Facilities and equipment for the use of such channel capacity.

30. "Resident" means any person residing in the City as otherwise defined by applicable law.

31. "School" means any public or private elementary school, secondary school, junior college, college or university which conducts classes or provides instructional services and which has been granted a certificate of recognition by the State of Iowa.

32. "Service area" is synonymous with franchise territory as defined in Section 117.03 of this chapter.

33. "Service interruption" means the loss of picture or sound on one or more cable channels.

34. "Street" means the surface of and the space above and below any public street, road, highway, freeway, easement, lane, path, alley, court, sidewalk, parkway, driveway or other public way now or hereafter existing as such within the City.

35. "Subscriber" means any person who legally receives any one or more of the services provided by the system, has an account with the Grantee and has elected to receive service.

36. "West Branch Cable Television Commission" is an advisory body to the Council on matters pertaining to the cable system and telecommunications system within the City. (See Chapter 25 of this Code of Ordinances for specifics regarding this body.)

37. "Headend" means the starting point of the cable system and generally includes the electronic processing equipment and other appurtenances necessary to receive and process satellite delivered programming to the cable system.

117.02 INTENT. The City finds that the development of cable communications systems has the potential of great benefit and impact upon the residents of the City. Because of the complex and rapidly changing technology associated with cable television, the City finds that the public health, safety and general welfare can best be served by establishing certain regulatory powers in the City as this chapter shall designate. It is the intent of this chapter to provide for the means to attain the best possible communication and developmental results in the public interest and for such public purpose, in these matters. Any franchise granted pursuant to this chapter shall be deemed to include these findings as an integral part thereof.

117.03 FRANCHISE TERRITORY. A franchise granted under this chapter is for the territorial limits of the City as they may exist now and in the future.

1. Service to All Residents. Grantee shall offer cable television service to all areas of the City, subject to the density requirement specified in the franchise agreement.

2. New Residential Construction. Grantee shall extend service to all new residences in all unwired developments as specified in the franchise agreement.

3. Grantee shall offer service at rates that conform to any requirements of Federal, State or local law. Grantee may, however, discontinue or refuse service to subscribers and potential subscribers who have not paid applicable charges. Further, the Grantee may offer special services or rates to senior citizens, or services to commercial subscribers at rates different from those charged residential subscribers, which shall include, but not be limited to, charges for installation on a time and material basis. The Grantee may also enter into separate contracts with multiple dwelling unit buildings and may charge discounted rates for services based upon single point billing or other contractual considerations. This section does not preclude the Grantee from offering promotional rates for service introductions or temporary promotional discounts, or from establishing a non-uniform rate structure for cable services for which rates are deregulated under Federal law.

4. Grantee shall provide a drop and basic service for one outlet, at no charge, to all current and future public buildings, including, but not limited to, City Offices, Municipal Town Hall, Public Library, public schools, Herbert Hoover National Historic Site, Herbert Hoover Presidential Library-Museum, that are presently located in the existing cable TV service area. New public buildings, schools, city halls, fire stations, public libraries and the Community Center will receive a drop

for basic and expanded basic service for one outlet at no charge. In no case, however, shall service be extended to hospitals, nursing homes or other residential facilities owned or operated by the Grantor at no charge.

117.04 POLICE POWER. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver or bar to the exercise of any governmental right to enact laws to protect the health, safety and welfare of the Grantor's citizens. By accepting a franchise, the Grantee recognizes the lawful police powers of the Grantor and reserves its rights to challenge the enactment of any laws which the Grantee believes extend beyond the lawful police powers of the Grantor in an appropriate judicial venue.

117.05 GRANT OF FRANCHISE.

1. Application. All applicants for a franchise under this chapter shall prepare and file a written application with the Grantor in such form as the Grantor shall designate.

2. Review of Application. Upon receipt of an application under this chapter, the Grantor shall review the same and make the application available for public inspection at such places and times as the Grantor shall designate. A decision shall be made on the application by the Grantor after evaluation thereof. The Grantor may grant one (1) or more franchises, or may decline to grant any franchise.

3. Franchise Required. Subject to Federal and State law, no cable system shall be allowed to operate, occupy or use the streets in the franchise area in the franchise area for the provision of cable service without a franchise granted in accordance with the provisions of this chapter.

4. Franchise Nonexclusive. Any franchise granted under this chapter shall be revocable and nonexclusive.

5. Franchise Requirements. Grantor may establish appropriate requirements for new franchises or franchise renewals, and may modify these requirements from time to time to reflect changing conditions and technology in the cable industry provided that such changes do not conflict with a lawfully enacted franchise or applicable law.

6. Grant. In the event the Grantor shall grant to a Grantee or renew a nonexclusive, revocable franchise to construct, operate, maintain and reconstruct a cable system within the franchise area, said franchise shall constitute both a right and an obligation to provide the service of a cable

system as required by this chapter and the terms of the franchise agreement.

7. Conflicts with Federal or State Laws. Any franchise granted under this chapter shall be consistent with Federal laws and regulations and the laws of the State and regulations. In the event of a conflict between the chapter and Federal or State law, and the terms of this chapter are irreconcilable with such Federal or State law, the applicable Federal or State law shall control.

8. Ordinance Revisions. Any franchise granted under this chapter is hereby made subject to any revisions of this chapter or the general ordinances of the City, provided that such revisions do not materially alter or impair the obligations of Grantee set forth in any franchise agreement.

9. Term. A franchise granted pursuant to this chapter shall become effective in accordance with the franchise agreement. The term shall be stated in the franchise, but shall in no event exceed fifteen (15) years.

10. Other Licenses or Permits. A franchise granted under this chapter shall not take the place of any other license or permit legally required of a Grantee.

117.06 FRANCHISE ACCEPTANCE.

1. To accept a franchise granted under this chapter, a Grantee must file any required bonds, funds and proof of insurance, as well as written notice of acceptance with the Clerk within sixty (60) days of the effective date of the franchise agreement. Such written notice shall include a certification that the Grantee:

A. Will comply with this chapter, any franchise agreements made pursuant to this chapter, and all applicable City, County, State and Federal regulations in regard to the construction, operation and maintenance of a cable system;

B. Accepts the franchise relying on its own investigation and understanding of the power and authority of the Grantor to grant the franchise and the terms and conditions thereof;

C. Acknowledges that it has not been induced to enter into the franchise by any understanding or promise or by other statement, whether written or verbal, by or on behalf of the Grantor or by any other third person concerning any term or condition of the franchise or chapter not expressed herein;

D. Shall have no recourse whatsoever against the Grantor for any loss, cost, expense or damage by reason of the Grantee's failure to have authority to grant any or all parts of the franchise, and will not at any time claim in any proceeding involving the Grantor that any agreed upon term or condition of this chapter or the franchise if unreasonable or arbitrary or that the Grantor had no power or authority to grant or make any such term or condition;

E. Agrees that, in the event of any conflict between the chapter and the franchise agreement, the terms of the franchise agreement shall prevail.

2. A Grantee of a franchise granted or transferred under this chapter will pay for the actual printing cost and publication cost incurred in granting the franchise, not to exceed $1,000.00.

117.07 TRANSFER OF OWNERSHIP OR CONTROL.

1. The Grantee's right, title or interest in the franchise shall not be sold, transferred assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee without consent by the Grantor. Such consent shall not be unreasonably denied. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the franchise or cable system in order to secure indebtedness. Any transfer of the franchise shall be in accordance with Section 617 of the Cable Act and applicable FCC rules and regulations.

2. In the absence of extraordinary circumstances, the Grantor shall not approve any transfer or assignment of the franchise prior to completion of initial construction of the cable system.

3. In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory of the franchise agreement.

117.08 FRANCHISE RENEWAL.

1. Applicable Federal law shall govern the procedures and standards for renewal of any franchise awarded pursuant to this chapter.

2. When the Grantor approves a franchise renewal, the Grantee shall accept the renewed franchise under the procedures set out in Section 117.06.

3. At the expiration (and denial of renewal) of a franchise, the Grantor may, in a lawful manner and upon payment of fair market value, determined on the basis of the cable system is valued as a going concern exclusive of any value attributable to the franchise itself, obtain, purchase, acquire, take over and hold the cable system. It shall be understood, however, that the Grantor shall not have a first right to purchase the system and shall be limited to the same rights as any other lawful person attempting to purchase the cable system fro the Grantee.

117.09 FRANCHISE FEE.

1. Quarterly Franchise Payment. A Grantee shall pay to the Grantor a fee of five percent (5%) of Grantee's annual gross revenue. Such payment shall commence as of the effective date of the franchise or any renewal date. The Grantor shall be furnished, on an annual basis, a statement within one hundred twenty (120) days of the close of the calendar year, either audited and certified by an independent certified public accountant or certified by a financial officer of the Grantee, reflecting the total amount of the revenue and all payments, deductions and computations for the period covered by the payment. The statement shall provide a general detail of the source and amount of all gross revenues. Upon ten (10) days' prior written notice, Grantor shall have the right to conduct an independent audit of Grantee's records, in accordance with generally accepted accounting procedures, and if such audit indicates a franchise fee underpayment of five percent (5%) or more, the Grantee shall assume all reasonable costs of such an audit.

2. Acceptance by Grantor. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligations of the Grantee.

3. Failure to Make Required Payment. In the event that any franchise payment is not made as required, interest on the amount due, as determined from the annual gross revenues as computed by the City, shall accrue from the date of the required submittal at an annual rate of twelve percent (12%).

4. Payment Schedule. The franchise fee shall be paid on a quarterly basis according to the following schedule: January through March shall be reflected in a May 15th payment; revenues for April through June shall be reflected in an August 15th payment; revenues for July through

September in an November 15th payment; and revenues for October through December in a February 15th payment.

5. Franchise Fee Increases. The Grantor may request an increase in franchise fees at any time during the term of the franchise, equal to the maximum allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to is subscriber. Prior to making a final decision regarding an increase in franchise fees, the Grantor shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fees.

6. All franchise fees to the City shall be placed in the City's General Fund and allocated to the West Branch Cable Television Commission for the purpose of developing the West Branch Community Television Facility.

117.10 REVOCATION.

1. Grounds For Revocation. If the Grantee has been given due notice and a reasonable opportunity to cure, the Grantor reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default under this chapter and a material breach of the franchise.

A. If the Grantee shall default in the performance of any of its material obligations under this chapter or under such documents, agreements and other terms and provisions entered into by and between the Grantor and the Grantee, subject to the provisions on cure.

B. If the Grantee should fail to provide or maintain in full force and effect, the liability and indemnification coverage or the security fund or bonds as required herein.

C. If the Grantee ceases to provide service for a period exceeding thirty (30) days for any reason within the control of the Grantee over the cable system, or abandons the management and/or operation of the system.

D. If the Grantee willfully violates any of the material provisions of this chapter or the franchise agreement or attempts to practice any fraud or deceit upon the Grantor.

E. If the Grantee becomes insolvent, or upon listing of an order for relief in favor of the Grantee in a bankruptcy proceeding.

F. If the Grantee transfers a controlling interest of the franchise without the prior approval or consent of the Grantor as required in Section 117.07.

2. Procedure Prior To Revocation.

A. The Grantor may make a written demand that the Grantee comply with any such requirement, limitation, term, condition, rule or regulation or correct any action deemed cause for revocation. Such written demand shall detail the exact nature of the alleged noncompliance and shall provide the Grantee with ninety (90) days in which to correct the alleged noncompliance. In the event the stated violation is not corrected to the City's satisfaction with said ninety (90) days, the Grantor shall schedule a public hearing and notify the Grantee in writing of said public hearing.

B. At the scheduled public hearing, the Grantor shall hear any persons interested therein, and shall provide the Grantee with an opportunity to provide testimony and evidence. At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Grantor, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing. Following the hearing, the Grantor shall determine whether or not the franchise shall be revoked. If the Grantor determines that the franchise shall be revoked, the Grantor shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the franchising authority to an appropriate court which shall have the power to review the decision of the franchising authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the franchising authority.

C. If the Grantor determines that the Grantee has willfully committed a material breach, then the Grantor may, by resolution,

declare the franchise terminated. Alternatively, the Grantor may, at its option, direct the Grantee to take appropriate remedial action within such time and under such terms and conditions as the Grantor may prescribe in order to avoid termination of the franchise.

117.11 PROCEDURES ON TERMINATION.

1. Disposition of Facilities. Subject to Federal, State and local laws, in the event a franchise expires, is revoked, or otherwise terminated, the Grantor may order the removal of the above-ground system facilities from the franchise area within a reasonable period of time as determined by the Grantor or require the original Grantee to maintain and operate its cable system for a period not to exceed twenty-four (24) months as indicated in subsection 4.

2. Restoration of Property. In removing its plant, structures, and equipment, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its plant, structures and equipment without affecting the electrical or telephone cable wires, or attachments. The Grantee's insurance, indemnity obligations, performance bond(s) and security fund(s) required by this chapter and by the franchise agreement shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this chapter.

3. Restoration by Grantor; Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required by subsection 1 and/or subsection 2 above, or any other work required by Grantor by law or ordinance, within thirty (30) days after receipt of written notice, and to the satisfaction of the Grantor, the Grantor may cause such work to be done and the Grantee shall reimburse the Grantor the cost thereof within thirty (30) days after receipt of an itemized list of such costs or the Grantor may recover such costs through the security fund or bonds provided by Grantee. The Grantor shall be permitted to seek legal and equitable relief to enforce the provisions of this chapter.

4. Extended Operation. Subject to Federal, State and local law, upon either the expiration or revocation of a franchise, the Grantor may require the Grantee to continue to operate the cable system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor

in interest, continue to operate the cable communications system under the terms and conditions of this chapter and the franchise agreement.

5. Grantor's Right Not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the Grantor under any provision of law.

117.12 RECEIVERSHIP, CONDEMNATION AND FORECLOSURE.

1. Operation by Receiver. Any franchise granted shall, at the option of the Grantor, cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers or trustee or trustees designated to take over and conduct the business of the Grantee, whether in a receivership, reorganization, condemnation, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

A. Such receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivers or trustees within said one hundred twenty (120) days shall have remedied all defaults under the franchise; and

B. Such receivers or trustees shall, within said one hundred twenty (120) days, execute an agreement duly approved by the Court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the franchise agreement.

2. Involuntary Sale. In the case of a foreclosure or other involuntary sale of the plant, property and equipment of the Grantee, or any part thereof, the Grantor may serve notice of termination upon the Grantee and to the purchaser at such sale, in which event the franchise and rights and privileges of the Grantee hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

A. The Grantor shall have approved the transfer of the franchise, as and in the manner in this chapter provided; and

B. Such successful purchaser shall have covenanted and agreed with the Grantor to assume and be bound by all the terms and conditions of the franchise agreement.

117.13 FRANCHISE PROCESSING COSTS.

1. New Franchises. For a new franchise awarded, the costs to be borne by the Grantee shall include, but shall not be limited to, all costs of publication of notices prior to any public meeting, publication of relevant ordinances and franchise agreements, incurred by the Grantor in its study, preparation of proposal solicitation documents, evaluation of all applications. A non-refundable franchise filing fee shall be paid to the City in the amount of one thousand dollars ($1,000.00).

2. Franchise Renewal. For a franchise renewal, the Grantee shall reimburse the Grantor the actual cost of preparation of notices, publication of notices, publication of relevant ordinances and franchise agreements, not to exceed $1,000.00. Grantee to assume and be bound by all the terms and conditions of the franchise agreement.

3. Franchise Transfer. For a franchise transfer, Grantee shall reimburse the Grantor the actual cost of preparation of notices, publication of notices, publication of relevant ordinances and franchise agreements, not to exceed $1,000.00.

4. Taxes. Subject to Federal and State law, the Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

5. Other Costs. The processing costs provided for in this section shall be in addition to any other inspection or permit fee or other fees due to Grantor under any other ordinance.

117.14 AUTHORITY FOR USE OF STREETS.

1. Use of Streets. For the purposes of operating and maintaining a system in City, Grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, across and along the streets within the City lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the system, and the delivery of service, provided that all applicable permits are applied for and granted, all fees paid and all other City codes and ordinances otherwise complied with. However, no rights hereunder may be transferred by Grantee to any other entity except Grantee's construction agents.

2. Filing Plans. Prior to construction or alteration, Grantee shall in each case file plans with all appropriate City departments and receive

written approval of such plans, which approval shall not be unreasonably withheld.

3. Noninterference. Grantee shall construct and maintain the system so as not to interfere with other uses of streets. Grantee shall make use of existing poles and other facilities available to Grantee whenever practicable.

4. Denial of Use by Grantor. Notwithstanding the above grant to use the streets, no street shall be used by Grantee if Grantor, in its sole opinion, determines that such use is inconsistent with the conditions or provisions by which such street was created or dedicated or presently used.

117.15 CONDITIONS ON USE OF STREETS.

1. Limit Interference. All transmission and distribution structures, lines and equipment erected by Grantee within the City shall be so located as to cause minimum interference with the proper use of streets and other public places and the rights and reasonable convenience of property owners who adjoin such streets and other public places.

2. Restoration of Streets. Streets, sidewalks, alleys and other public property disturbed in the course of work commenced by the Grantee shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the Grantor.

3. Tree Trimming. The Grantee shall comply with the provisions of the West Branch Tree Ordinance, as amended. Each Grantee shall be responsible for, shall indemnify, defend and hold harmless the Grantor and its officers, agents and employees from and against any and all damages arising out of or resulting from the removal, trimming, mutilation of or injury to any tree or trees proximately caused by the Grantee or its officers, agents, employees, contractors or subcontractors.

117.16 ERECTION OF POLES.

1. Consent of Erection of Poles. No franchise shall be deemed to expressly or implicitly authorize the Grantee to construct or install poles or wire-holding structures within streets for the purpose of placing cables, wires, lines or otherwise without the written consent of the Grantor. Such consent shall be given upon such terms and conditions as the City Engineer may prescribe, which shall include a requirement that the Grantee perform, at its sole expense, all tree trimmings required to maintain the poles clear of obstructions.

2. The Grantee may lease, rent or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables and other equipment and facilities from utility companies operating within the City, and use towers, poles, lines, cables and other equipment and facilities for the system. When and were practicable, the poles used by the Grantee's distribution system shall be those erected and maintained by such utility companies operating within the City, provided mutually satisfactory rental agreements can be reached. It is the City's desire that all holders of public franchises in the City cooperate with the Grantee and allow the Grantee the use of their poles and pole line facilities whenever possible so that the number of new or additional poles installed in the City may be minimized.

3. Access to Poles. With respect to any poles which a Grantee is authorized to construct and install within streets, a public utility serving the Grantor may, if denied the privilege of utilizing such poles or wire-holding structures by the Grantee, apply for such permission to the Public Works Director. If the Public Works Director finds that such use would enhance the public convenience and would not unduly interfere with the Grantee's operations, the Public Works Director may authorize such use subject to such terms and conditions as the Public Works Director deems appropriate. Such authorization shall include the condition that the public utility pay to the Grantee any and all actual and necessary costs incurred by the Grantee in permitting such use. Nothing herein shall be construed as a right for the Grantee to utilize public utility property.

117.17 UNDERGROUNDING.

1. Underground Installation Required. Except as hereinafter provided, in all areas of the City where the cables, wires and other like facilities of a public utility are placed underground, each Grantee shall construct and install its cables, wires and other facilities underground at the time of construction unless it is impossible or impractical to do so due to weather or other conditions beyond the control of the Grantee, upon written request from the City. Such cable wire could remain above ground. The Grantee must install the wire as soon as conditions permit and no later than six (6) months after original installation. Amplifier boxes and pedestal mounted terminal boxes may be placed aboveground but shall be of such size and design and shall be so located as not to be unsightly or unsafe. In any area of the City where there are certain cables, wires and other like facilities of a public utility underground and at least one (1) operable cable, wire or like facility of a public utility is

suspended above the ground from poles, a Grantee may construct and install its cables, wires and other facilities from the same pole with permission of the utility company which owns the poles.

2. Relocation Underground. With respect to any cables, wires and other like facilities constructed and installed by a Grantee aboveground, the Grantee shall, at its sole expense reconstruct and reinstall such cables, wires, or other facilities underground pursuant to any project under which the cables, wires or other like facilities of all like utilities are placed underground within an area.

117.18 RELOCATION. If, during the term of a franchise, the Grantor, a public utility, a sanitary district or any other similar special district elects to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any street or to replace, repair, install, maintain, or otherwise alter any aboveground or underground cable, wire, conduit, pipe, line pole, wire-holding structure, or other facility utilized for the provisions of utility or other services or transportation or drainage, sewage or other liquids, the Grantee shall, except as otherwise hereinafter provided, at its sole expense, remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and any other facilities which it has installed. If such removal or relocation is required within the subdivision in which all utility lines, including those for the system, were installed at the same time, the entities may decide among themselves who is to bear the cost of relocating, provided that the Grantor shall not be liable to a Grantee for such costs. Reasonable advance written notice shall be mailed to the Grantee advising the Grantee of the date or dates that the removal or relocation is to be undertaken. If funds are available to any person using the public way for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

117.19 PLACEMENT OF BUILDINGS. Each Grantee shall, upon request by any person holding a building moving permit or other approval issued by the Grantor, temporarily remove, raise or lower its wires to permit the movement of buildings. The expense of such removal, raising or lowering shall be paid by the persons requesting same, unless if requested by the City, in which case there shall be no reimbursement to Grantee. Grantee shall be authorized to require such payment in advance. A Grantee shall be given not less than thirty (30) days' written notice to arrange for such temporary wire changes.

117.20 SYSTEM DESIGN AND CONSTRUCTION.

1. System Design. A cable system shall comply with the terms specified in the franchise agreement.

2. Service. Service shall be provided to subscribers in accordance with the schedules and line extension policies specified in Section 117.03. Cable system construction and provision of service shall be nondiscriminatory, and Grantee shall not delay or deter service to any section of the franchise area on the grounds of economic preference.

3. System Construction Schedule.

   A. Grantee shall comply with the requirements of the system construction or upgrade schedule contained in the franchise agreement.

   B. Grantee shall provide a detailed construction or upgrade plan indicating progress schedules, area construction maps, test plan, and projected dates for adding service. In addition, Grantee shall update this information on a monthly basis, by submitting a copy of its normal internal progress reports, showing specifically whether schedules are being met and the reason for any delays.

4. All Channels Emergency Alert. The Grantee shall comply with the Emergency Alert System requirements of Federal law and FCC regulations and the franchise agreement. The franchising authority shall hold the Grantee, its agents, employees, officers and assigns here under, harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including, but not limited to, reasonable attorney's fees and costs.

5. As specified in this franchise, the Grantee will install a backup generator at its head end that will provide the needed power to generate the head end in the event of a power outage.

6. Subscriber's Control.

   A. Switching Device. The Grantee upon request from any subscriber, shall install, at cost a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Grantee shall not require the removal, or offer to remove, any subscriber's antenna lead-in wire.

   B. Parental Control Devices. Grantee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block

both the video and audio portion of such channels to the extent that both are unintelligible. The lockout device described herein shall be made available to all subscribers requesting it, beginning on the first day that any cable service is provided. Customers shall pay a reasonable charge for parental control devices.

117.21 CONSTRUCTION STANDARDS.

1. Each Grantee shall construct, install and maintain its system in a manner consistent and in compliance with all applicable laws, ordinances, construction standards, governmental requirements, and technical standards equivalent to those established by the FCC. Each Grantee shall provide to the Grantor written reports of the Grantee's annual proof of performance tests conducted pursuant to FCC standards and requirements upon written request by the Grantor.

2. Each Grantee shall at all times comply with the National Electrical Safety Code (National Bureau of Standards); National Electrical Code; National Bureau of Fire Underwriters; applicable FCC and other Federal, State and local regulations; and codes and other ordinances of the City.

3. In any event, the system shall not endanger or interfere with the safety of persons or property within the City or other areas where the Grantee may have equipment located.

4. All working facilities, conditions, and procedures, used or occurring during construction and maintenance of the system, shall comply with the standards of the Occupational Safety and Health Administration.

5. Construction, installation and maintenance of the system shall be performed in an orderly and workmanlike manner, and in close coordination with public and private utilities serving the City, following accepted construction procedures and practices and working through existing committees and organizations.

6. In those areas of the City where transmission or distribution facilities of both telephone and power companies are underground or hereafter may be placed underground, the Grantee shall likewise construct, operate, and maintain all of its transmission and distribution facilities underground to the maximum extent the then existing technology permits, in accordance with the most recent National Electrical Code, and its successor document, as well as in conformance with all applicable State and municipal ordinances and codes. If and

when necessary, amplifiers and/or transformers in the Grantee's transmission and distribution lines shall be in appropriate housings on the surface of the ground. The Grantee shall obtain a permit from the Grantor for such underground construction of all work required or pursuant to this section. Even when not required, underground installation is preferable to the placing of additional poles.

7. Any antenna structure used in the system shall comply with construction, marking and lighting of antenna structures required by FCC Rules Part 17.

8. Right of Inspection of Construction. The City shall have the right to inspect all construction or installation work performed subject to the provisions of this permit and to make such inspections as it shall find necessary to ensure compliance with the terms of this permit and other pertinent provision of law.

117.22 TECHNICAL STANDARDS.

1. Standards. The cable communications system shall meet all technical and performance standards contained in the franchise agreement and those required by the FCC.

2. Special Tests. At any time after commencement of service to subscribers, the Grantor may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests shall be limited to the particular matter in controversy. The Grantor shall endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to Grantee or to the subscriber.

3. Costs of Tests. The costs of all tests required by subsection 2, and retesting as necessary, shall be borne by the Grantee, except that if Grantor requires the utilization of outside consultants or test personnel, such costs shall be borne by the Grantor.

117.23 SERVICES.

1. Service Provided. The Grantee shall provide, as a minimum, the initial services listed in the franchise agreement. Services shall not be reduced without prior notification to Grantor.

2. Basic Cable Service. The "Basic Cable Service" shall include any service tier which includes the retransmission of local television signals.

3. PEG Facilities and Access Channel. The Grantee shall provide channels for use by the Grantor for public, educational and government (PEG) programming use, as specified in the franchise agreement. Grantee will also provide to Grantor, at no charge, technical and engineering assistance in the development by Grantor of PEG access facilities.

4. Any modulating or distribution equipment, and interface equipment to permit operation specified in the franchise will be at the expense of the Grantee.

5. Cable Channel for Local and Leased Commercial Use. The Grantee shall designate channel capacity for local and leased commercial use as required by the Act and applicable law.

6. Grantee shall, at its own expense and upon written request of the Grantor, provide and maintain one connection for basic and expanded basic service to each City office building, public and private school, library, police station, and fire station within the corporate limits of the City. It shall also maintain one connection for basic cable service to the Herbert Hoover Presidential Library-Museum and the Herbert Hoover National Historic Site. Grantee is not responsible for providing the distribution system within any of such places and is not required to bear the expenses or costs of any installation necessary for such purpose beyond a 200-foot drop. Such additional cost shall be borne by the requesting institution or location.

7. The distribution of locally originated programming from West Branch PEG access facilities is restricted to the corporate City limits unless specifically permitted by the City. All violations of this provision will be subject to remedy under Section 117.42 and Section 117.43(2)(B) and will be grounds for revocation of the franchise under Section 117.10.

(Ord. 582 – Mar. 05 Supp.)

117.24 CONSUMER SERVICE STANDARDS. Nothing in this chapter shall be construed to prevent or prohibit: (i) the Grantor and the Grantee from agreeing to exceed the customer service standards set forth herein; (ii) the establishment or enforcement of any State or municipal law or regulation concerning customer service or consumer protection that imposes customer service or consumer protection requirements that exceed the standards set forth herein, or address matters not addressed herein.

1. Subscribers' Antennas. The Grantee shall not require the removal or offer to remove or provide any inducements for removal of any potential or existing subscriber's antenna as a condition of provision of service.

2. Disconnections. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a fee or charge, the Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given seven (7) days advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Grantee shall promptly reinstate the subscriber's service in accordance with its normal installation scheduling procedures.

3. Reconnections. Grantee shall restore service to customers upon requesting service, provided customer shall first satisfy any previous obligations owed.

4. Downgrades. Subscribers shall have the right to have cable service disconnected or downgraded in accordance with FCC rules. The billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be credited to the customer's account or paid to the customer within forty-five (45) days from the date of termination of service.

5. Channel Card. The Grantee shall prepare and make available at no charge to the subscribers, an accurate and up-to-date channel and radio frequency card listing the cable frequencies and channels of any television signals, and services available over the cable system. The channel card shall be distributed to every subscriber within thirty (30) days after a change or addition in channels or frequency uses or services offered. A newspaper advertisement in a newspaper of record may be provided in lieu of a channel card for channel changes.

6. Service Repair Standards. The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions and requests for cable service as required by this chapter.

7. Regional Customer Service Center. Grantee shall maintain a regional customer service center with a toll free telephone number for the purpose of receiving inquiries, requests, and complaints concerning all aspects of the establishment, construction, maintenance, and operation of the system. The regional customer service center shall be open during normal business hours.

8. Installation Staff. An installation staff shall install service to any subscriber located up to 125 feet from the existing distribution system within seven (7) days after receipt of a request. This standard shall be met no less than ninety-five percent (95%) of the time, measured on a quarterly basis.

9. Notification of Service Interruption to City Administrator. The Grantee shall promptly notify the City Administrator, in writing, or if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" means any interruption of sound or picture on one or more channels of a duration of at least eighteen (18) hours to at least twenty-five percent (25%) of the subscribers.

10. The Cable Television Commission may periodically develop and distribute customer satisfaction and service surveys. Each questionnaire shall be prepared and conducted in good faith so as to provide reasonably reliable measures of subscriber satisfaction with: a) audio and signal quality; b) responses to subscriber complaints; c) billing practices; d) programming services; and e) installation practices.

11. The Grantee shall conform with FCC Customer Service Standards as found in Exhibit A on file at City Hall.

117.25 PROOF OF COMPLIANCE.

1. Compliance Records. Upon reasonable notice, Grantee shall demonstrate compliance with any or all of the standards required by this chapter. Grantee shall provide sufficiently detailed information to permit Grantor to readily verify the extent of compliance.

2. Breach for Noncompliance. A repeated and verifiable pattern of noncompliance with the consumer protection standards contained in this chapter or franchise agreement, after Grantee's receipt of due notice and an opportunity to cure, may be termed a breach of franchise, subject to any and all remedies prescribed in this chapter, the Act and applicable law. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards in this chapter or franchise agreement unless an historical record of complaints indicates a clear failure to comply.

117.26 COMPLAINT PROCEDURES.

1. Complaints to Grantee. Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without

intervention by the Grantor. The procedures shall prescribe the manner in which a subscriber may submit a complaint, either orally or in writing. Grantee shall complete its investigation of a subscriber's complaint within ten (10) days after receiving the complaint, and Grantee shall notify the subscriber of the results of the investigation and its proposed action or resolution, if any, within five (5) business days. The Grantee shall also notify the subscriber of the subscriber's right to file a complaint with the Grantor in the event the subscriber is dissatisfied with the Grantee's decision.

2. Complaints to Grantor. A subscriber who is dissatisfied with Grantee's proposed decision shall be entitled to have the complaint reviewed by the Grantor. The subscriber shall initiate the review by filing a complaint, together with the Grantee's decision, if any, with the Grantor, and by the Grantor notifying the Grantee of the filing. The subscriber shall make such filing and notification within twenty (20) days of receipt of Grantee's decision or, if no Grantee decision has been provided, within thirty (30) days after filing the original complaint with Grantee. The Grantor may extend these time limits for reasonable cause.

3. Review by the Grantor. The Grantor shall determine, upon a review of a subscriber complaint and the Grantee's decision, if any, whether the Grantee has violated a term of the franchise agreement. In the event the Grantor does not initiate further proceedings within sixty (60) days of the filing of the complaint, the Grantee's proposed action or resolution shall be final. If the Grantor decides to initiate further investigation, the Grantor shall require the Grantee and the subscriber to submit, within fifteen (15) days of notice thereof, a statement of the facts and arguments in support of their respective positions. The Grantor shall issue a written decision within fifteen (15) days of receipt of the statements or, if a hearing is requested, within thirty (30) days of the conclusion of the hearing, setting forth the basis of the decision.

117.27 SUBSCRIBER NOTICE.

1. Operating Policies. As subscribers are connected or reconnected to the cable system, and at least annually, and at any time upon request, and when Grantee's procedures change, under normal operating conditions, the Grantee shall provide each subscriber with written information concerning products and services offered, prices and options for programming services and conditions of subscription to programming and other services, installation and service maintenance policies, instructions on how to use the cable services, channel positions of

programming carried on the system, the procedures for billing and making inquiries or complaints (including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed) and also furnish information concerning the Grantor office responsible for administration of the franchise with the name and telephone number of the office. The notice shall also indicate Grantee's business hours, legal holidays and procedures for responding to inquiries after normal business hours. The Grantee shall provide all subscribers and the Grantor written notice no less than thirty (30) days prior to any proposed change in these policies.

2. Rates, Programming Service and Channel Position. A Grantee, under normal operating conditions, shall provide all subscribers and the Grantor with notice of any change in rates, programming services, or channel positions at least thirty (30) days prior to the change(s) using any reasonable written means at its sole discretion. A Grantee is not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee or any other fee, tax, assessment or charge imposed by a Federal agency, State or Grantor on the transaction between the Grantee and subscribers.

3. Billing. Bills shall be clear, concise, understandable and shall include the Grantee's toll-free or collect telephone number. Bills shall be fully itemized, with itemizations, including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Grantee must respond to a written complaint from a subscriber within thirty (30) days. Refund checks will be issued promptly, no later than either (i) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (ii) the return of the equipment supplied by the Grantee if service is terminated. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

4. Copies to Grantor. Copies of all notices provided to subscribers shall be filed concurrently with the Grantor.

117.28 QUALITY OF SERVICE. The overall quality of service provided by Grantee to subscribers may be subject to evaluation by Grantor, not less often than once annually. In addition, Grantor may evaluate the quality of service at any time, based upon the number of subscriber complaints received by the Grantee and the Grantor, and Grantee's response to those complaints.

Grantor's evaluation that service quality is inadequate may lead to direction to Grantee to cure the inadequacies. Grantee shall commence corrective action within thirty (30) days after receipt of written notice. Failure to do so shall be deemed to be a breach of the franchise and subject to the remedies prescribed in this chapter. Grantor, after due process, may utilize the performance bond and/or security fund provided for in this chapter to remedy any such franchise breach.

117.29 TENANT'S RIGHTS. Grantee shall be required to provide service to tenants in individual units of a multiple housing facility with all services offered to other dwelling units within the franchise area, so long as the owner of the facility consents in writing, if requested by Grantee, to the following:

1. Grantee's providing the service to units of the facility;

2. Reasonable conditions and time for installation, maintenance and inspection of the system on the facility premises;

3. Reasonable conditions promulgated by Grantee to protect Grantee's equipment and to encourage widespread use of the system.

117.30 RIGHT OF INDIVIDUALS.

1. Discrimination Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, PEG access channel users, or general citizens on the basis of income, race, color, religion, national origin, age, gender, marital status or physical or mental disability. Grantee shall comply at all times with the Cable Act and all other applicable Federal, State and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.

2. Equal Employment. Grantee shall strictly adhere to the equal employment opportunity requirements of Federal, State and local law and regulations in effect on the date of the franchise grant, and as amended from time to time.

3. Personal Information. The Grantee's policy with regard to personally identifiable information shall be consistent with Federal law.

4. Equal Accessibility. The entire system of the Grantee shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios and other services to all citizens, businesses, public agencies and other entities having a legitimate use for the system, and no one shall be arbitrarily

excluded from its use. Nothing herein shall be construed as requiring uniform pricing of services.

5. Discontinuation of Service.

A. If a subscriber fails to pay any proper fee or charge for any service, the Grantee may discontinue said service, provided that the subscriber has been given no less than ten (10) days' prior notice of the intention to discontinue service.

B. If the Grantee receives payment of all outstanding fees and charges, including any late charges, prior to the expiration of the tenth (10th) day after receipt transmittal of said notice from the Grantee, then the Grantee shall not discontinue said service. After any service has been discontinued, upon request of the subscriber accompanied by payment in full of all fees or charges due the Grantee and the payment of an appropriate reconnection charge, if any, the Grantee shall promptly reinstate said service in accordance with its normal installation scheduling procedures.

C. Subscribers and users shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service. The subscriber shall not be charged any fee for the cancellation of cable service. Grantee may charge reasonable fees for service downgrades as permitted under the Cable Act and FCC regulations.

6. Private Easements. No cable, line, wire, amplifier converter or other piece of equipment owned by the Grantee shall be installed by the Grantee within private easements without first securing the written permission of the owner, of the property involved, unless otherwise permitted under Federal law.

117.31 CONTINUITY OF SERVICE.

1. Right to Continuous Service. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify, or sell the system, or the Grantor gives notice of intent to terminate or fails to renew the franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service. In the event of a change of Grantee, or in the event a new operator acquires the system, the original Grantee shall cooperate with the Grantor, new Grantee or operator in maintaining continuity of service to all subscribers. During such period, Grantee

shall be entitled to the revenue for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

2. Right of Grantor to Operate System. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the Grantor or without just cause, the Grantor may, working in conjunction with any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the Grantor or a permanent operator is selected. If the Grantor is required to fulfill this obligation for the Grantee, then during such period as the Grantor fulfills such obligation, the Grantor shall be entitled to collect a reasonable management fee.

117.32 RECORDS.

1. Open Books and Records. The Grantor, upon reasonable notice, shall have the right to inspect at any time during normal business hours, all books, records, maps, plans, service complaint logs, performance test results and other like materials of the Grantee which relate to the regulation of the franchise and are maintained at the local office required by this chapter or franchise agreement, provided that the Grantor shall maintain the confidentiality of any trade secrets or other proprietary information in the possession of the Grantee, and provided further, that records shall be exempt from inspection pursuant to this section to the extent required by applicable law regarding subscriber privacy and to the extent such records are protected by law against discovery in civil litigation. If any such books or records are not kept by the regional office, or upon reasonable request made available to the Grantor, and if the Grantor shall determine that an examination of such records is necessary or appropriate to the performance of any of Grantor's duties, then Grantee shall make such records available regionally.

2. Required Records. The Grantee shall at all times maintain the complaint files, required by this chapter, and a full and complete set of plans, records, and "as-built" strand maps showing the exact location of all cable system equipment installed or in use in the franchise area, exclusive of subscriber service drops. At a minimum, the complaint files shall describe the time and date the complaint was made, the nature of the complaint, the disposition of the complaint and the time and date of the disposition.

117.33 REGULATORY AUTHORITY. The Grantor shall exercise regulatory authority under the provisions of this chapter, the Cable Act, and applicable law. If the franchise area served by the cable system also serves other contiguous or neighboring communities, Grantor may, at its sole option, participate in a joint regulatory agency, with delegated responsibility in the area of cable and related communications.

117.34 REGULATORY RESPONSIBILITY. The Grantor, acting alone or acting jointly with other Grantors, may exercise or delegate the following regulatory responsibility:

1. Administering and enforcing the provisions of the cable communications system franchise(s),

2. Coordinating the operation of public, educational and government (PEG) access channel and facilities,

3. Providing technical, programming and operational support to public agency users, such as government departments, schools and health care institutions,

4. Establishing procedures and standards for use of channels dedicated to public use and sharing of public facilities,

5. Planning expansion and growth of public benefit cable services,

6. Analyzing the possibility of integrating cable communications with other local, regional or national cable television networks,

7. Formulating and recommending long-range cable television policy.

117.35 PUBLIC USAGE OF THE SYSTEM.

1. The Grantor may utilize a portion of the cable communication system capacity, and associated facilities and resources, to develop and provide cable services that will be in the public interest. In furtherance of this purpose, the Grantor may authorize the West Branch Cable Television Commission to establish a nonprofit corporation, or other entity to receive and allocate PEG and institutional network facilities, support funds and other considerations provided by the Grantor, the Grantee, and/or others. Such an entity, if established, may be delegated the following responsibilities:

   A. Receive and utilize or reallocate for utilization, channel capacity, facilities, funding and other support provided

specifically for PEG and institutional network usage of the cable communications system.

B. Establish, in conjunction with the Grantee, operational procedures and guidelines for PEG and institutional network usage.

C. Review the status and progress of each service developed for public benefit.

D. Reallocate resources jointly with the Grantee on a periodic basis to conform with changing priorities and public needs.

E. Report to the Grantor and the Grantee annually on the utilization of resources, the new public services developed and the benefits achieved for the Grantor and its residents.

2. Leased Access Channels. The Grantee shall made available leased access in compliance with Section 612 of the Act and applicable FCC regulations.

117.36 RATES. Pursuant to Federal law, the Grantor reserves the right to assume regulation of rates paid by cable subscribers; such rate regulation shall be performed by the West Branch Cable Commission as advisory to the Council in accordance with FCC Rules and Regulations "Part 76; Subpart N." As specified by the FCC's Rules (Part 76, Subpart N), such rate regulation shall cover basic service rates and customer premises installations and equipment rates (including charges for, but not be limited to: converter boxes, remote control units, connections for additional television receivers and other cable home wiring). Grantor reserves the right to further regulate rates pursuant to any additional powers granted it by either the FCC or Federal or State law.

1. Rate Regulatory Procedures. In the event that rate regulatory powers are assumed by Grantor, the following shall apply:

A. The Grantor shall notify the Grantee of Grantor's FCC certification and of Grantor's adoption of rate regulations which are consistent with the FCC regulations and which provide for a reasonable opportunity for consideration of the views of interested parties.

B. Upon receipt of such notification by Grantee, basic service regulation shall become effective. Before any proposed adjustment to basic service rates, Grantee shall, within thirty (30) days before such proposed rate increase becomes effective, submit for review its basic service, installation and equipment rates and

supporting documentation using the applicable FCC calculations and forms.

2. Proprietary Information. To aid in the evaluation of the Grantee's proposed rates, the Cable Commission may require the production of proprietary information, and in such cases will apply procedures analogous to those set forth in FCC regulations (47 C.F.R. Sec, 0.459), and consistent with Federal and State law.

3. Refunds. As specified in the FCC regulations, the West Branch Cable Commission may recommend to the Council that the Grantee refund to subscribers that portion of previously paid rates which have been found to be unreasonable. Before recommending that the Grantee refund previously paid rates to subscribers, the West Branch Cable Commission must give the Grantee notice and opportunity to comment.

4. Basic Service Rate Increases and Equipment Charges. All subsequent requests by the Grantee for increases in equipment changes and/or basic service rates shall be subject to the procedures outlined in this section.

5. Service Disconnection. A subscriber shall have the right to have his/her service completely disconnected without charge, which shall include the removal of any equipment owned by the Grantee from the subscriber's residence. Such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following written notice to the Grantee of same. No Grantee shall enter into any agreement with a subscriber which imposes any charge following complete disconnection of service, except for reconnection and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new customers. This section shall not prevent a Grantee from refusing service to any person because of the Grantee's prior accounts with that person which remain due and owing. Grantee may not charge for service downgrades except to the extent allowed by applicable law.

6. Subscribers may file complaints with the Grantor regarding a Grantee's expanded tier rates that are subject to regulations by the FCC by submitting written comments to the City Clerk's office. Such complaints must be received within ninety (90) days of the effective date of the new rate.

7. Deposits. If required by Federal law, the Grantee shall bear interest at the minimum lending rate required by law on any subscriber

deposit or a rate equal to that paid by the Grantor for water and/or sewer deposits.

8. The provisions of this section and this chapter shall not extend beyond rate regulation powers provided in the Cable Act or FCC rules and regulations.

117.37 PERFORMANCE REVIEW. At Grantor's sole option, the Grantor may hold a public hearing not more than once every three years at which the Grantee shall be present and shall participate to review the performance and quality of service of the cable system. The report required in this chapter regarding subscriber complaints, the records of performance tests and the opinion survey reports shall be utilized as the basis for review. In addition, any subscriber may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered.

1. Performance Report. Within thirty (30) days after the conclusion of the public hearing, Grantor shall issue a report with respect to the adequacy of system performance and quality of service. If inadequacies are found, Grantor may direct Grantee to correct the inadequacies within a reasonable period of time.

2. Breach Upon Failure to Cure. Failure of Grantee, after due notice, to correct the inadequacies, shall be considered a breach of the franchise, and Grantor may, at its sole discretion, exercise any remedy within the scope of this chapter considered appropriate.

117.38 SYSTEM REVIEW. To provide for technological, economic, and regulatory changes in the state of the art of cable communications, to facilitate renewal procedures, to promote the maximum degree of flexibility in the cable system, and to achieve a continuing, advanced modern system, the following system and services review procedures are hereby established:

1. At Grantor's sole option, the Grantor may hold a public hearing not more than once every three years, at which the Grantee shall be present and shall participate, to review the cable communication system and service.

2. Grantee shall submit a report to Grantor upon forty-five (45) days of Grantor's request, indicating the following:

A. All developments and improvements in other cable systems owned or operated by the Grantee, excluding tests and demonstrations.

B. Any specific plans for provision of such new services by the Grantee.

3. Topics for discussion and review at the system and services review hearing shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, system performance, programming, subscriber complaints, user complaints, rights of privacy, amendments to the franchise, underground processes, developments in the law, and regulatory constraints, and the community's cable-related future needs and interests.

4. Either the Grantor or the Grantee may select additional topics for discussion at any review hearing.

117.39 ANNUAL REPORTS. Upon written request of the Grantor, within one hundred twenty (120) days after the close of Grantee's fiscal year, the Grantee will be required to submit a written annual report, in a form requested by the Grantor, including, but not limited to, the following information:

1. A summary of the previous year's (or, in the case of the initial report year, the initial year's) activities in development of the cable system, including, but not limited to, services begun or discontinued during the reporting year, and an approximate number of subscribers;

2. A statement of projected construction, if any, for the next two (2) years;

3. A list of Grantee's officers, members of its council of directors, and other principals of Grantee;

4. A list of stockholders or other equity investors holding twenty percent (20%) or more of the voting interest in the Grantee and its parent, subsidiary and affiliated corporations and other entities, if any, unless the parent is a public corporation whose annual reports are publicly available. A prospectus is requested but does not necessarily satisfy requirements in this section.

117.40 COMPLAINT FILE AND REPORTS. An accurate and comprehensive file shall be kept by the Grantee for eighteen (18) months of any and all written or documented complaints regarding the cable system. Grantee shall establish a procedure to remedy complaints quickly and reasonably to the satisfaction of the Grantor. Complete records of Grantee's actions in response to all complaints shall be kept.

1. A summary of service requests, identifying the number and nature of the requests and their disposition, upon Grantor request, shall be completed for each month and submitted monthly to the Grantor.

2. Grantee shall maintain a log and summary of all major service outages within the preceding three (3) years.

117.41 OTHER REPORTS AND INSPECTIONS. In addition to other reports or inspections provided by this chapter, Grantee shall provide the following reports to or permit the following inspections by Grantor:

1. Copies of Federal and State Reports. The Grantee may be required to submit to the Grantor copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Grantee to any Federal, State and local courts, regulatory agencies and other government bodies relating to its cable television operations within the franchise area. Grantee shall submit such documents to the Grantor no later than thirty (30) days after receipt of a Grantor request.

2. Public Reports. A copy of each of Grantee's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporation and other entities, as the Grantor requests, shall be submitted to the Grantor within thirty (30) days after receipt of a request.

3. Inspection of Facilities. The Grantee shall allow the Grantor to make inspections of any of the Grantee's facilities and equipment at any time upon at least ten (10) days' notice, or in case of emergency, upon demand without prior notice, to allow Grantor to verify the accuracy of any submitted report.

4. Public Inspection. All reports subject to public disclosure shall be available for public inspection at a designated Grantor office during normal business hours.

5. Failure to Report. The willful refusal, failure or neglect of the Grantee to file any of the reports reasonably required, or such other reports as the Grantor reasonably may request, may be deemed a breach of the franchise, and may subject the Grantee to all remedies, legal or equitable, which are available to the Grantor under the franchise or otherwise.

6. False Statements. Any materially false or misleading statement or representation made knowingly and willfully by the Grantee in any report required under the franchise may be deemed a breach of the franchise and may subject the Grantee to all remedies, legal or equitable, which are available to the Grantor under the franchise or otherwise.

7. Cost of Reports. One (1) copy of all reports and records required under this or any other section shall be furnished at the sole expense of the Grantee.

117.42 REMEDIES FOR FRANCHISE VIOLATIONS. If the Grantee fails to perform any material obligation under the franchise, or fails to do so in a timely manner, the Grantor may seek remedies as provided in the franchise agreement or applicable law.

1. Assess against the Grantee monetary damages up to the limits established in the franchise agreement for material franchise violations, said assessment to be collected by Grantor after completion of the procedures specified in this chapter. The amount of such assessment shall be deemed to represent liquidated damages actually sustained by Grantor by reason of Grantee's failure to perform. This provision for assessment of damages is intended by the parties to be separate and apart from Grantor's right to enforce the provisions of the construction and performance bonds provided for in this chapter and is intended to provide compensation to Grantor for actual damages.

2. No remedy shall be imposed by Grantor against Grantee for any violation of the franchise without Grantee's being afforded due process of law, as provided for in Sections 117.43 and 117.44.

3. If the Grantee fails to perform any material obligations under the franchise, Grantor may access liquated damages against the Grantee. Grantee shall be provided due process of law as provided in Sections 117.43 and 117.44 of this chapter and applicable local, State, Federal laws and FCC rules and regulations prior to any actual assessments of liquated damages.

117.43 PROCEDURES FOR REMEDYING FRANCHISE VIOLATIONS.

1. Schedule of Liquidated Damages. Because Grantee's failure to comply with certain material provisions of this agreement and this chapter will result in injury to the City or to subscribers, and because it will be difficult to estimate the extent of such injury, the City and Grantee hereby agree that the liquidated damages and penalties stated in this chapter represent both parties' best estimate of the maximum possible damages resulting from the specified injury. The parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fine, forfeitures or revocation of the franchise for violations of the franchise where the violation was a good faith error that resulted in no or minimal negative impact of the subscribers within the service area

or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or subscribers.

2. Violations. For the violation of any of the following, the City shall notify Grantee in writing of the violation. The City shall provide Grantee with a detailed written notice of any franchise violation upon which it proposes to take action, and there shall be a thirty (30) day period within which Grantee may demonstrate that a violation does not exist or cure an alleged violation or, if the violation cannot be corrected in thirty (30) days, submit a plan satisfactory to the City to correct the violation. If an alleged violation is proven to exist, following a duly noticed public hearing, and no cure or action on a plan acceptable to the City has been received by the City within thirty (30) days, such liquidated damages shall be chargeable to the Security Fund as set forth in this chapter if not tendered by Grantee within thirty (30) days. Grantee may petition the City Council for relief with just cause. The imposition of liquidated damages shall not preclude the City from exercising the other enforcement provisions of the franchise, including revocation, or other statutory or judicially imposed penalties. Liquidated damages may be imposed as follows:

A. For failure to complete construction or extend service in accordance with franchise: $150/day for each day the violation continues.

B. For failure to comply with requirements for public, educational and government access: $100/day for each day the violation continues.

C. For failure to submit reports, maintain records, provide documents or information: $100/day for each day the violation continues.

D. For violation of customer service standards required by this franchise, this chapter or by FCC regulation: $100/day per standard violated.

E. For violation of the books and financial records provisions of this franchise and this chapter: up to $100/day for each day the violation continues.

F. For violation of other material provisions of this franchise or this chapter: up to $100/day for each day the violation continues.

117.44 NONPERFORMANCE EXCUSED. In the event Grantee's performance of any of the terms, conditions, obligations, or requirements of the franchise is prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof, provided Grantee has notified Grantor within a reasonable time after Grantee's discovery of the occurrence of such an event. Such causes beyond Grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of nature and civil emergencies.

117.45 CONSTRUCTION BOND.

1. Requirement of Bond. Within thirty (30) days after the granting of a new franchise, or a renewal which requires significant system construction, and prior to the commencement of any construction work by the Grantee, the Grantee shall file with the Grantor a construction bond in the amount specified in the franchise agreement in favor of the Grantor.

2. No Limitation on Liability. In no event shall the amount of said bond be construed to limit the liability of the Grantee for damages.

3. Waiver of Bond. Grantor, at its sole option, may waive this requirement, or permit consolidation of the construction bond with the performance bond specified, respectively in Section 117.46.

4. Release of Bond. Upon completion of construction, any construction bonds then in force shall be released.

117.46 PERFORMANCE BOND/SECURITY FUND.

1. Requirement of Bond. Grantor may require any successor, assignee or transferee of the Grantee to file with the Grantor a performance bond in an amount as specified in the franchise agreement prior to the commencement of operation. The performance bond shall be in favor of the Grantor, who may be entitled to damages as a result of any occurrence in the operation of or termination of the cable system operated under this chapter or the franchise agreement.

2. Form of Bond. Such bond as contemplated herein shall be in the form approved by the Grantor.

3. No Limitation of Liability. In no event shall the amount of said bond be construed to limit the liability of the Grantee for damages.

4. Within ten (10) days after execution of the franchise agreement, the Grantee shall deposit with the City Clerk, and maintain on deposit through the term of this franchise, the sum of $10,000.00 as security for the faithful performance by it of all the provisions of this franchise and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under this contract, and the payment by the Grantee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the system.

5. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to subsection 1 of this section, the Grantee shall pay to, or deposit with, the City Clerk a sum of money sufficient to restore such security fund to the original amount of $10,000.00.

6. If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days notice to pay to the City any taxes due and unpaid; or fails to repay to the City within such ten (1) days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this franchise; or fails after three (3) days notice of such failure by the City Council to comply with any provision of this contract which the City Council reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Clerk shall notify the company of the amount and date thereof.

7. The security fund deposited pursuant to this section shall become the property of the City in the event that this contract is cancelled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of this franchise, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund will accrue to the Grantee.

8. The rights reserved to the City with respect to the security fund are in addition to al other rights of the City, whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the City may have.

117.47 WORK PERFORMED BY OTHERS.

1. The Grantee shall give prior notice to the Grantor specifying the names and addresses of any entity, other than the Grantee, that performs construction services in excess of $100,000 pursuant to the franchise, provided, however, that all provisions of the franchise remain the responsibility of the Grantee.

2. All provisions of a franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the franchise.

3. Nothing in this section shall be construed as allowing the transfer of any rights or responsibilities of the Grantee without approval of the Grantor in writing.

117.48 GRANTEE INSURANCE.

1. Insurance Required. The Grantee shall maintain throughout the term of the franchise, insurance in amounts at least as follows:

A. Worker's Compensation. Worker's Compensation with Coverage A at statutory limits and Coverage B at limits of $500,000. Insurance shall cover the employees of the Grantee in compliance with the State of Iowa and all other states having the jurisdiction over each employee.

B. Comprehensive General Liability. Comprehensive General Liability including Premises/Operations; Products/Completed Operations; Broad Form Property Damage; Contractual Liability; Coverage for Explosion, Collapse and Underground Hazards; and Pollution Control Liability shall include limits of not less than $1,000,000 for bodily injury (including death) and property damage for each occurrence and not less than $1,000,000 in the aggregate.

C. Umbrella Liability. Umbrella Liability with limits of not less than $1,000,000 and shall carry the following endorsement: "It is hereby understood and agreed that despite anything to the contrary where underlying insurance, as described herein, provides greater protection or indemnity to the insured than the terms and conditions of this policy, this insurance shall pay on behalf of the insured the same terms, conditions and coverages which apply to the basic underlying insurance. Where no such broader underlying insurance exists, this policy shall pay on

behalf of the insured upon terms and conditions and limitations of the carrier's umbrella excess policy."

2. Certificates to Grantor. The Grantee shall furnish the Grantor with copies of such insurance policies or certificates of insurance within sixty (60) days of the effective date of the franchise agreement.

3. Grantor as Additional Insured. Such insurance policies provided for herein shall name the Grantor as additional insured, and shall be primary to any insurance carried by Grantor, and shall contain the following endorsement: "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days' written notice to the certificate holder named."

4. No Limitation on Liability. The minimum amounts set forth in the franchise agreement for such insurance shall not be construed to limit the liability of the Grantee to the Grantor under the franchise issued hereunder to the amount of such insurance.

5. Approved Insurers. All insurance carriers providing coverage under subsection 1 shall be duly licensed to operate in the State of Iowa.

117.49 INDEMNITY.

1. Extent of Indemnity. The Grantee shall, by acceptance of any franchise granted, indemnify, defend and hold harmless the Grantor, its officers, boards, commissions, agents, and employees from any and all claims, suits, judgments, for damages or other relief, costs and attorneys, fees in any way existing out of or through or alleged to arise out of or through:

A. The act of the Grantor in granting the franchise,

B. The acts or omissions of Grantee, its servants, employees, or agents including, but not limited to, any failure or refusal by Grantee, its servants, employees or agents to comply with any obligation or duty imposed on Grantee by this chapter or the franchise agreement.

C. The exercise of any right or privilege granted or permitted by this chapter or the franchise agreement.

Such indemnification shall include, but not be limited to, all claims arising in tort, contract, infringements of copyright, violations of statutes, ordinances or regulations or otherwise.

2. Defense of Claims. In the event any such claims shall arise, the Grantor or any other indemnified party shall tender the defense thereof to the Grantee. Provided, however, the Grantor or other indemnified party in its sole discretion may participate in the defense of such claims at Grantee's sole expense, and in such event, such participation shall not relieve the Grantee from its duty or defense against liability or of paying any judgment entered against such party. Grantee shall not agree to any settlement of claims without Grantor approval.

3. Grantor's Negligence. The Grantee shall not be required to indemnify the Grantor for negligence or willful misconduct on the part of Grantor's officials, boards, commissions, agents or employees.

117.50 ALTERNATIVE REMEDIES. No provision of this chapter shall be deemed to bar the right of the Grantee or the City to seek or obtain judicial relief from a violation of any provision of the franchise or any rule, regulation, requirement or directive promulgated thereunder or from any claim involving a violation of applicable law. Neither the existence of other remedies identified in this chapter nor the exercise thereof shall be deemed to bar or otherwise limit the right of the Grantor to recover monetary damages, including all dispute related expenses such as attorneys' fees and except where liquidated damages or judicial enforcement of the Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other judicial remedy available at law or in equity. All judicial action sought for a violation of any provision of the franchise or any rule, regulation, requirement or directive promulgated thereunder shall be commenced in a court of competent jurisdiction. Nothing herein is deemed to bar Grantor from granting any relief from the Cable Act or any other applicable law.

117.51 NONENFORCEMENT. Subject to the provisions of the Act, a Grantee shall not be relieved of any obligation to comply with any of the provisions of the franchise or any rule, regulation, requirement or directive promulgated thereunder by reason of any failure of the Grantor or its officers, agents or employees to enforce prompt compliance nor shall such be considered a waiver thereof.

117.52 COMPLIANCE WITH LAW. Notwithstanding any other provisions of the franchise to the contrary, the Grantee shall at all times comply with all laws and regulations of the State and Federal government or any administrative agencies thereof. Provided, however, if any such State or Federal law or regulation shall require the Grantee to perform any service, or shall permit the Grantee to perform any service, or shall prohibit the Grantee from performing

any service, in conflict with the terms of the franchise or any law or regulation of the Grantor, then as soon as possible following knowledge thereof, the Grantee shall notify the Grantor of the point of conflict believed to exist between such regulation or law and the laws or regulations of the Grantor or the franchise.

117.53 UNAUTHORIZED RECEPTION, USE OR SALE OF SERVICES.

1. It is unlawful for any person to lawfully obtain any cable signal or service from a Grantee and to resell such cable signal or service without the prior written consent of such Grantee.

2. It is unlawful for any person to intercept, de-scramble, decode, or receive or assist in the interception, de-scrambling, decoding or receiving of any cable signal or service of a Grantee without the prior written consent of Grantee. As used in this subsection "assist in interception, de-scrambling, decoding or receiving" includes the manufacture or distribution of equipment intended by the manufacturer or distributor for unauthorized reception of cable signal or service.

3. It is unlawful for any person to intentionally damage any cables, lines or equipment of any Grantee used in or for the purpose of transmitting cable signals or service.

4. It is unlawful for any person to obtain cable signals or service from any Grantee of the Grantor by means of fraud, deceit or theft.

117.54 WAIVER OR EXEMPTION. The Grantor reserves the right to waive provisions of this chapter, or exempt a Grantee from meeting provisions of this chapter, if the Grantor determines such waiver or exemption is in the public interest.

117.55 FORCE MAJEURE. Any delay, preemption or other failure to provide cable service and to perform other duties contained in this chapter and the franchise agreement by the Grantee caused by factors beyond the Grantee's control, such as acts of God, labor disputes, non-delivery by program suppliers, war, riot, government order or regulation, shall not result in a breach of the terms of this chapter and franchise agreement. Grantee shall exercise its reasonable efforts to cure any such delays and the cause thereof, and performance under the terms of this chapter and franchise agreement shall be excused by Grantor for the period of time during which such factors continue.

117.56 EQUAL PROTECTION. In the event the franchising authority enters into a franchise, permit, license, authorization or other agreement of any

kind with any other person or entity other than the Grantee to enter into the franchising authority's streets and public ways for the purpose of constructing or operating a cable television system or providing cable television service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

117.57 CABLE TELEVISION COMMISSION. Refer to Chapter 25 of this Code of Ordinances.

(Ch. 117 – Ord. 553 – Jun. 02 Supp.)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(Code of Iowa, Sec. 123.49 [2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Sell, give or otherwise supply any alcoholic beverage, wine or beer to any person, knowing that the person is under legal age or failing to exercise reasonable care to ascertain whether the person is under legal age; or permit any person to consume any alcoholic beverage, wine or beer, knowing that the person is under legal age or failing to exercise reasonable care to ascertain whether the person is under legal age.

(Code of Iowa, Sec. 123.49 [2h])

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CHAPTER 121

CIGARETTE PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

4. "Place of business" means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.

5. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.

6. "Self-service display" means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

7. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist

tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(Code of Iowa, Sec. 453A.13)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13)

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	$ 75.00
October, November or December	$ 56.25
January, February or March	$ 37.50
April, May or June	$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator 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 violator's permit shall be suspended for a period of thirty (30) days.

3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.

4. For a fourth violation within a period of five (5) years, the violator'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 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, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
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122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
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122.11 Revocation of License
122.12 Notice
122.13 Hearing
122.14 Record and Determination
122.15 Appeal
122.16 Effect of Revocation
122.17 License Exemptions
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by 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" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

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.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. For one day..... $ 10.00
2. For one week..... $ 25.00
3. For up to six (6) months..... $ 100.00
4. For one year or major part thereof ..... $ 175.00

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 six o'clock (6:00) 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 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 local School Districts 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.

122.18 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.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
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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 three hundred (300) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability

insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - $50,000 per person; $100,000 per accident.
2. Property Damage - $50,000 per accident.

123.06 PERMIT FEE. A permit fee of one hundred dollars ($100.00) 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.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods,

wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, bore or in any manner disturb any street, parking or alley without first obtaining consent of the City, in accordance with the following:

1. Permit Required. No excavation or boring shall be commenced without first obtaining a permit therefor, at least 48 hours prior to such excavation or boring. 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 or bore;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Backfill. Within the public right-of-way, backfill shall consist of Class A crushed stone or suitable job excavated material placed in one-foot lifts compacted to 90% Modified Proctor Density. The City Engineer is to determine under what conditions and what locations job excavated material may be used as backfill material. If crushed stone is used, the top twelve (12) inches of backfill shall consist of suitable job excavated material. Flowable mortar may be used upon approval of mix design by the City Engineer. Sand backfill is not permitted; however, sand may be used as electric, telephone or cable utility bedding.

5. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of two thousand dollars ($2,000.00) 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 two thousand dollars ($2,000.00) may be filed with the City. Such bond or deposit shall be held no less than two (2) years for excavations and no less than thirty (30) days for boring.

6. 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.

7. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

8. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

9. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the

work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

10. 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.

11. 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.

12. 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.

13. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed

promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
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136.05 Performance by City
136.06 Sidewalk Construction Ordered
136.07 Sidewalk Standards
136.08 Barricades and Warning Lights
136.09 Failure to Repair or Barricade
136.10 Interference with Sidewalk Improvements
136.11 Awnings
136.12 Encroaching Steps
136.13 Openings and Enclosures
136.14 Fires or Fuel on Sidewalks
136.15 Debris on Sidewalks
136.16 Gutters and Downspouts
136.17 Merchandise Display
136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Driveway" means the area between the street and property line.

(Ord. 698 – Feb. 13 Supp.)

3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

6. "Portland cement" means any type of cement except bituminous cement.

7. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

8. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

9. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 PERFORMANCE BY CITY. If the property owner does not perform an action required by this chapter within a reasonable time, the Council may cause such required action to be performed as outlined in the sidewalk maintenance policy as approved by the City Council and assess the costs and expenses therefor against the abutting property for collection in the same manner as property taxes; provided, however, no such assessment can be made for the repair, reconstruction or replacement of the public sidewalk unless the City has served upon the person shown by the records of the Cedar County Auditor or the Johnson County Auditor to be the owner of the abutting property, by certified mail, a notice requiring said person to perform, reconstruct or replace the public sidewalk within ninety (90) days from the date said notice is mailed. (2000 Code § 136.03; amd. 2008 Code). ***(Ord. 697 – Feb. 13 Supp.)***

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

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

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Newly constructed residential sidewalks shall be at least five (5) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length. Repair and replacement of sidewalks will follow the standards herein, except for width requirements specified in the City of West Branch, Iowa Sidewalk Inspection and Repair Policy. ***(Ord. 698 – Feb. 13 Supp.)***

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas in residential zoning districts shall not be less than six (6) inches in thickness, or equivalent strength per SUDAS standards. ***(Ord. 698 – Feb. 13 Supp.)***

D. Driveway areas and sidewalks adjacent to driveway areas in non-residential zoning districts shall not be less than eight (8) inches in thickness, or equivalent strength per SUDAS standards. ***(Ord. 698 – Feb. 13 Supp.)***

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on/at the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one (1) inch above the curb for each foot between the curb and the sidewalk, unless otherwise specified by the City.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least the width of the abutting sidewalk, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.08 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.09 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.10 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.11 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.16 GUTTERS AND DOWNSPOUTS. All eaves, gutters and drains shall be so constructed and located as not to allow water to run from such eave or drain or to run off from roofs onto public sidewalks.

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

EDITOR'S NOTE

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

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
167	June 4, 1953	682	July 18, 2011
170	October 5, 1953	690	March 5, 2012
172	April 5, 1954		
179	January 3, 1956		
180	April 2, 1956		
181	May 7, 1956		
186	July 7, 1958		
189	September 14, 1959		
190	September 19, 1959		
204B	April 6, 1964		
236	September 8, 1970		
237	November 2, 1970		
240	April 5, 1971		
245	December 20, 1971		
264	April 21, 1975		
277	June 21, 1976		
289	June 20, 1977		
292	October 3, 1977		
293	October 3, 1977		
307	July 2, 1979		
513	July 19, 1999		
522	February 7, 2000		
525	June 5, 2000		
544	November 5, 2001		
546	January 7, 2002		
615	August 7, 2006		
625	January 2, 2007		
628	February 5, 2007		
631	June 18, 2007		

CHAPTER 138

STREET GRADES

138.01 Established Grades 138.02 Record Maintained

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

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

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

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
37	February 15, 1928		
217	March 27, 1966		
218	July 10, 1967		
229	May 19, 1969		
270	September 15, 1975		
286	June 6, 1977		

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of West Branch, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following

changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

FIRE ZONE

145.01 Fire Zone Established
145.02 Plans Submitted
145.03 Buildings Prohibited
145.04 Construction Standards
145.05 Reconstruction Prohibited
145.06 Special Permit
145.07 Removal of Buildings
145.08 Storage of Materials Restricted

145.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

Beginning at the intersection of the centerlines of Main Street and Second Street; thence west, 500 feet; thence south, 120 feet; thence west, 650 feet; thence north to the centerline of Main Street; thence east, 70 feet; thence north 368 feet; thence east to the centerline of Poplar Street; thence south, 240 feet to the alley; thence east along the centerline of the alley to the centerline of Downey Street; thence north to the centerline of Green Street; thence east to a point 150 feet westerly (perpendicular distance) from the centerline of the Chicago, Rock Island and Pacific Railroad; thence northerly along a line parallel to and 150 feet westerly of the centerline of said Railroad to the south right-of-way line of Orange Street, extended west; thence east to the easterly right-of-way line of said Railroad; thence northerly along the easterly right-of-way line of said Railroad to the north line of the SW¼ of Section 5, Township 79N, Range 4 West, of the 5th Principal Meridian; thence east along said line to a point 420 feet east of the east right-of-way line of Fourth Street; thence south 380 feet; thence west to the centerline of Fourth Street; thence south to the south line of Wolfe's Addition; thence west to a point 250 feet easterly (perpendicular distance) from the centerline of the Chicago, Rock Island and Pacific Railroad; thence southerly along a line parallel to and 250 feet easterly of the centerline of said Railroad to the south right-of-way line of Green Street; thence east to the centerline of Fourth Street; thence south to the centerline of Main Street; thence east to the centerline of the alley through Block 8, Original Town of Cameron; thence south to the centerline of Water Street; thence east, 50 feet; thence south to the easterly right-of-way line of the Chicago, Rock Island and Pacific Railroad; thence west to the westerly right-of-way line of said Railroad; thence southerly along the westerly right-of-way line of said Railroad to the south line of Stoolman's 1st Addition; thence west to the west line of Stoolman's 1st Addition; thence north to the centerline of Cookson Street; thence east to the centerline of 4th Street; thence north to the centerline of South Maple Street; thence west, 180 feet; thence north to the south line of Lot 1 of Haines Addition; thence west to the centerline of Second Street; thence north to the Point of Beginning. All of the South Half (S½) of Section 8, Township 79 North, Range 4 West of the 5th P.M., which is bounded by the southerly Interstate 80 right-of-way on the north, the westerly boundary of the abandoned railroad right-of-way on the east, the northern boundary of County gravel road right-of-way on the south, and the eastern boundary of the County road X30 right-of-way on the west, excepting

therefrom the south 365 feet of the west 450 feet of the SW¼ of Section 8, Township 79 North, Range 4 West of the 5th P.M.

and also

LACINA SUBDIVISION DESCRIBED AS: Commencing at the southwest corner of the North Half of the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian; thence N 90 degrees 00 minutes 00 seconds E, along the south line of said North Half, 50 feet, to its intersection with the easterly right-of-way line of County Road "X-30"; thence N 0 degrees 33 minutes 00 seconds W, along said easterly right-of-way line, 264.00 feet, to the Point of Beginning; thence N 0 degrees 33 minutes 00 seconds W, along said easterly right-of-way line, 40.00 feet; thence N 90 degrees 00 minutes 00 seconds E, 259.00 feet; thence N 0 degrees 33 minutes 00 seconds W, 585.25 feet, to the southerly right-of-way line of Interstate 80; thence N 74 degrees 51 minutes 00 seconds E, along said southerly right-of-way line, 316.61 feet; thence S 0 degrees 33 minutes 10 seconds E, 213.49 feet; thence N 74 degrees 51 minutes 00 seconds E, 350.00 feet; thence S 0 degrees 33 minutes 10 seconds E, 560.98 feet; thence N 31 degrees 21 minutes 00 seconds W, 240.90 feet; thence S 54 degrees 39 minutes 30 seconds W, 398.92 feet; thence S 90 degrees 00 minutes 00 seconds W, 453.19 feet, to the Point of Beginning. All in accordance with the Plat recorded in Plat Book 5, at Page 320, except Parcel “A” and Parcel “B” as recorded in Plat Book 6, at Page 599, all Recorded in the Auditor’s Office in Cedar County, Iowa. Said tract of land contains 7.90 acres more or less and is subject to easements and restrictions of record.

AND: Two tracts of land in the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian, Cedar County, Iowa, more particularly described as follows: Commencing at the southwest corner of the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian; thence N 0 degrees 33 minutes 00 seconds W, along the west line of the Southwest Quarter of said Section 8, 1597.27 ft.; thence east, along the south line of Commercial Drive, 503.19 feet; thence N 54 degrees 39 minutes 00 seconds E, along the south line of Commercial Drive, 549.14 feet to the northeast corner of Lot 10 of Lacina Subdivision; thence S 00 degrees 33 minutes 10 seconds E, along the east line of said Lot 10, 112.10 feet; thence S 89 degrees 51 minutes 20 seconds E, 225.00 feet to the Point of Beginning; thence continuing S 89 degrees 51 minutes 20 seconds E, 225.00 feet to the Point of Beginning; thence continuing S 89 degrees 51 minutes 20 seconds E, 544.00 feet; thence S 00 degrees 33 minutes 00 seconds E, 800.80 feet; thence N 89 degrees 51 minutes 20 seconds W, 544.00 feet; thence N 00 degrees 33 minutes 00 seconds W, 800.80 feet to the Point of Beginning. Said tract of land contains 10.000 acres, more or less, and is subject to easements and restrictions of record. AND: Commencing at the southwest corner of the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian; thence N 0 degrees 33 minutes 00 seconds W, along the west line of the Southwest Quarter of said Section 8, 1597.27 ft.; thence east, along the south line of Commercial Drive, 503.19 ft.; thence N 54 degrees 39 minutes 00 seconds E, along the south line of Commercial Drive 549.11 feet.; to the northeast corner of Lot 10 of Lacina Subdivision; thence S 00 degrees

33 minutes 10 seconds E, along the east line of said Lot 10, 112.10 feet to the Point of Beginning; thence S 89 degrees 51 minutes 20 seconds E, 225.00 feet; thence S 00 degrees 33 minutes 00 seconds E, 468.98 feet; thence west, 60.00 feet; thence N 00 degrees 33 minutes 00 seconds W, 264.00 feet; thence west 165.00 feet; thence N 00 degrees 33 minutes 10 seconds W, 205.55 feet, to the Point of Beginning. Said tract of land contains 1.424 acres, more or less, and is subject to easements and restrictions of record.

Beginning at the northwest corner of Lot 1 of Rock Island Lumber Co.'s First Addition to the Town of West Branch, Cedar County, Iowa; thence S 88 degrees 36 minutes 35 seconds W along the southerly line of Orange Street if extended westerly, 30.00 feet; thence S 01 degree 02 minutes 29 seconds E, 234.96 feet, to a point on the north line of Thomas' Second Addition to the Town of West Branch, Cedar County, Iowa; thence S 88 degrees 08 minutes 29 seconds W along said north line and the westerly projection thereof, 268.90 feet; thence N 01 degree 17 minutes 45 seconds W 262.15 feet, to a point on the centerline of said Orange Street; if extended westerly; thence N 88 degrees 36 minutes 35 seconds E along said centerline if extended westerly, 300.05 feet; thence S 01 degree 02 minutes 29 seconds E, 25.00 feet to the Point of Beginning. Said tract of land contains 1.63 acres more or less and is subject to easements and restrictions of record.

145.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Building Inspector, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

145.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

145.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

145.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

145.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to

the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

145.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

145.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

CHAPTER 146

WATER WELL PROTECTION

146.01 West Branch Water System District **146.03 Penalty**
146.02 Prohibited Uses

146.01 WEST BRANCH WATER SYSTEM DISTRICT. For the purpose of carrying out the provisions of this chapter, the following described area shall be designed as the West Branch Water System District:

All property located within the corporate boundaries of the City

No building or premises shall be used and no building shall be erected except in conformity with the regulations prescribed herein for the district in which it is located.

146.02 PROHIBITED USES. The following uses within designated distances of the location of the well site shall be deemed to constitute a nuisance and shall not be permitted in the West Branch Water System District.

1. Well house floor drains — 5 feet;
2. Water treatment plant wastes — 50 feet;
3. Sanitary and industrial discharges — 400 feet;
4. Floor drains from pump house to surface:
   A. None within 5 feet;
   B. 5 to 10 feet — water main materials enclosed in concrete permitted;
   C. 10 to 25 feet — must be water main material;
   D. 25 to 75 feet — must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
   A. None permitted within 25 feet;
   B. 25 to 75 feet, must be water main material;
   C. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
   A. None permitted within 75 feet;

B. 75 to 400 feet, must be water main materials;

7. Land application of solid waste — 100 feet;
8. Irrigation of wastewater — 100 feet;
9. Concrete vaults and septic tanks — 100 feet;
10. Mechanical wastewater treatment plants — 200 feet;
11. Cesspools and earth pit privies — 200 feet;
12. Soil absorption fields — 200 feet;
13. Lagoons — 400 feet;
14. Chemicals:
    A. Application to ground surface — 100 feet;
    B. Above ground storage — 100 feet;
    C. On or underground storage — 200 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 100 feet;
17. Animal wastes:
    A. Land application of solids — 100 feet;
    B. Land application of liquid or slurry — 100 feet;
    C. Storage tank — 100 feet;
    D. Solids stockpile — 200 feet;
    E. Storage basin or lagoon — 400 feet;
18. Earthen silage storage trench or pit — 100 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 50 feet;
22. Cemeteries — 200 feet;
23. Private wells — 200 feet;
24. Solid waste disposal sites — 1,000 feet.

146.03 PENALTY. Any person violating any provision of this chapter shall be guilty of a misdemeanor. Each day any such violation exists constitutes a distinct and separate violation. In addition to the standard penalty, violations may also be corrected by bringing an action in District Court asking for an

injunction to abate any violation, to prevent the occupancy of any building, structure of land or to prevent any illegal act, conduct, business or use.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Division Lines
150.04 Numbers
150.05 Designation of Streets
150.06 Plat

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half 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 DIVISION LINES. All buildings fronting on the public streets within the limits of the City shall be numbered according to the following plan: for buildings fronting on streets running north and south, the line of division shall be Main Street; for buildings fronting on streets running east and west, the division line shall be Downey Street.

150.04 NUMBERS. Buildings on the west side of streets running north and south shall bear even numbers and buildings on the east side of such streets shall bear odd numbers. Buildings on the south side of the streets running east

and west shall bear even numbers and buildings on the north side of such streets shall bear odd numbers. In subdivided areas, the numbers shall advance by two for each lot and in areas not subdivided, numbers shall be computed on the basis of a number for each 25 feet of frontage. Numbers shall begin with the one hundred series starting at the intersection of Main and Downey Streets and the numbers in the successive blocks shall advance one hundred. The Clerk shall, when requested by any property owner, designate the number of any buildings in the City not heretofore numbered, in accordance with the provisions of this chapter and shall keep a record of the numbers so designated.

150.05 DESIGNATION OF STREETS. That part of any street which intersects Main Street and lies north thereof shall be designated by the prefix "north" and that which lies south thereof by the prefix "south." That part of any street which intersects Downey Street and lies east thereof shall be designated by the prefix "east" and that which lies west thereof shall be designated by the prefix "west."

150.06 PLAT. The plat prepared by the Planning and Zoning Commission under the direction of the Council and bearing the date of April 1, 1991, is hereby adopted and made a part hereof. The Clerk shall be responsible for maintaining the building numbering map.

CHAPTER 151

TREES

151.01 Trees and Shrubs on Public Property
151.02 Permitted Trees
151.03 Prohibited Trees
151.04 Planting Restrictions
151.05 Obstruction; Trees Trimmed
151.06 Disease Control
151.07 Inspection and Removal

151.01 TREES AND SHRUBS ON PUBLIC PROPERTY. All trees and shrubs planted on streets shall be planted midway between the outer line of the sidewalk and the curb where the curb line is established, and where the curb line is not established, the tree or shrub shall be planted on line 10 feet from the property line. No tree or shrub shall be planted between the property line and the curb without first having obtained agreement from the City.

151.02 PERMITTED TREES. All street trees shall be approved by a City official. Trees shall be selected according to the list below:

1. Very Small Trees (25 feet tall, maximum)

Amur Maple	Eastern Redbud
Eastern Wahoo or Burning Bush	Flowering Crabapple
Shadblow Serviceberry	Pagoda Dogwood
Tartarian Maple	Flowering Dogwood
Star Magnolia	Amur Corktree
Cockspur Hawthorn	Amur Maackia
Winter King Hawthorn	

2. Small Trees (25 feet to 35 feet tall)

Downy Hawthorn	Ironwood or Hop-hornbeam
Shubert Cherry	Saucer Magnolia

3. Medium Trees (35 feet to 50 feet tall)

Blue Ash	Ginkgo (male variety only)
Black Gum	Bald Cypress
Callery Pear	Littleleaf Linden
River Birch	Horsechestnut

4. Large Trees (50 feet to 70 feet tall)

Norway Maple	Swamp White Oak
Green Ash	Thornless Honey Locust
Patmore	Red Sunset Maple
Summit	Sugar Maple
Bergeson	Kentucky Coffeetree
Prairie Spire	Black Maple

5. Very Large Trees (taller than 70 feet)

White Ash	Northern Red Oak
Sycamore	Bur Oak
Hackberry	American Linden or Basswood
White Oak	English Oak

151.03 PROHIBITED TREES. The following trees should not be planted in the street:

1.	Boxelder	8.	Tree of Heaven
2.	White Poplar	9.	Catalpa
3.	Willows	10.	European Mt. Ash
4.	Silver Maple	11.	Cottonwood
5.	Weeping Birch	12.	Boileana Poplar
6.	Siberian Elm	13.	American Elm
7.	Lombardy Poplar	14.	Black Locust

151.04 PLANTING RESTRICTIONS.

1. Trees should not be planted within twenty (20) feet of existing overhead utility wires.

2. Trees shall have a minimum of 1¼-inch caliper on street.

3. Tree Spacing:

   A. 30 feet between Very Small, Small and Medium Trees.

   B. 35 feet between Large and Very Large Trees.

   C. 20 feet from intersections.

   D. 10 feet from driveways and alleys.

   E. 4 feet from areas between street and sidewalk.

151.05 OBSTRUCTION; TREES TRIMMED. Trees or shrubs on public or private property bordering on any street shall be trimmed to sufficient height to allow free passage of pedestrians and vehicular travel and so they will not obstruct or shade the street lights, the vision of traffic signs, or the view of any street intersection. The minimum clearance of any overhanging portion of such trees or shrubs shall be nine (9) feet over sidewalks and thirteen (13) feet over all streets.

1. Public Property. The City shall trim or cause to be trimmed trees and shrubs on public property to the minimum height set out above. Private citizens shall not remove or trim trees on public property without prior approval of the City.

2. Private Property; Notice to Trim. When the City finds it necessary to order obstructing trees or shrubs on private property to be trimmed, it shall cause written notice to be served on the property owner requiring such trees or shrubs to be trimmed to the minimum height set out above within thirty (30) days after receipt of the said notice. The notice required herein shall be served by mailing a copy of said notice to the last known address of the property owner by certified mail. If the City is unable to secure notice on the property owner, said written notice may be served on the occupant or person in charge of the property in the same manner as set out herein.

3. Failure to Comply. When a person to whom such notice is directed fails to comply within the specified time, the City shall trim or cause to be trimmed such trees or shrubs and the exact cost of such work shall be certified by the Clerk to the County Treasurer to be collected with and in the same manner as general property tax.

151.06 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.07 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

STATE BUILDING CODE

155.01 Adoption of Code
155.02 Building Permit Fees
155.03 Key Lock Box System

155.01 ADOPTION OF CODE. Pursuant to published notice and public hearing, as required by Section 380.10 of the Code of Iowa, the *Iowa State Building Code*, promulgated pursuant to Chapter 103A of the Code of Iowa, is hereby adopted by reference as the building code of the City and is made a part hereof as if fully set out in this chapter.

(Code of Iowa, Sec. 103A.10[2b] and Sec. 380.10)

155.02 BUILDING PERMIT FEES.

TOTAL VALUATION	FEE
$1 to $500	$23.50
$501 to $2,000	$23.50 for the first $500 plus $3.05 for each additional $100, or fraction thereof, to and including $2,000.
$2,001 to $25,000	$69.25 for the first $2,000 plus $14 for each additional $1,000, or fraction thereof, to and including $25,000.
$25,001 to $50,000	$391.25 for the first $25,000 plus $10.10 for each additional $1,000, or fraction thereof, to and including $50,000.
$50,001 to $100,000	$643.75 for the first $50,000 plus $7 for each additional $1,000, or fraction thereof, to and including $100,000.
$100,001 to $500,000	$993.75 for the first $100,000 plus $5.60 for each additional $1,000, or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$3,233.75 for the first $500,000 plus $4.75 for each additional $1,000, or fraction thereof, to and including $1,000,000.
$1,000,001 and up	$5,608.75 for the first $1,000,000 plus $3.15 for each additional $1,000, or fraction thereof.

Other Inspections and Fees:

1.	Inspections outside of normal business hours (minimum charge – two hours)	$47 per hour[1]
2.	Reinspection fees assessed under provisions of Section 305.8	$47 per hour[1]
3.	Inspections for which no fee is specifically indicated (minimum charge – one-half hour)	$47 per hour[1]
4.	Additional plan review required by changes, additions and inspections, or both (minimum charge – one-half hour)	$47 per hour[1]
5.	For use of outside consultants for plan checking and inspections, or both	Actual Costs[2]

[1]Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

[2]Actual costs include administrative and overhead costs.

(Ord. 611 – Nov. 06 Supp.)

155.03 KEY LOCK BOX SYSTEM.

1. Installation Required. The following structures constructed after the effective date of Ordinance No. 585, codified by this section, shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Chief:

A. Commercial or industrial structure;

B. Multi-family residential structures defined as three or more dwelling units that have restricted access through locked doors and have a common corridor for access to the living units;

C. Commercial structures on main floor and residential dwelling units on second or above floors; and

D. Governmental structure and nursing care facilities.

2. General Requirements. All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit.

A. The Fire Chief shall designate the type of key lock box system to be implemented within the City and shall have the authority to require all structures to use the designated system.

B. The key lock box shall be located at or near the main entrance to the building or property. It shall be mounted at a height of 6 feet above final grade or designated by the Fire Chief.

C. The owner or operator of a structure required to have a key lock box shall at all times keep a key in the lock box that will allow for access to the structure.

D. The Fire Chief shall be authorized to implement rules and regulations for the use of the lock box system.

E. Any property or building owner failing to comply with, or in violation of the terms of this section after notice from the City Fire Chief, shall be subject to a municipal infraction or simple misdemeanor citation.

F. No existing structures shall be required to comply with this section unless the structure is issued a building permit that would include the location in which the key lock box would be placed.

3. Application.

A. The Fire Chief will write a procedure for the use of the key lock box system.

B. The Fire Chief will review annually with the City Council the key lock box system and also report to the City Council how the key lock box system has been used in the proceeding year.

4. Exceptions.

A. Any person or applicant refusing to comply with this section under the direction of the West Branch Fire Chief and/or the West Branch Building Inspector will write the reasons for refusal to the West Branch Building Inspector.

B. The Building Inspector will review the case with the City Administrator and Fire Chief.

C. The City Administrator will place a public hearing on the next available City Council meeting after publishing a public hearing notice in the West Branch official publication.

D. After the public hearing, the City Council will allow exceptions to this section when the building owner can show compelling reasons why installation of the key lock box would prevent the building owner from completing the building project.

(Ord. 585 – Jul. 05 Supp.)

[The next page is 727]

CHAPTER 156

UNIFORM FIRE CODE

156.01 ADOPTION OF UNIFORM FIRE CODE. Pursuant to published notice and public hearing as required by law, there is adopted that certain code known as the *Uniform Fire Code*, 1997 Edition, Volumes 1 and 2, including all appendices and standards thereto.

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CHAPTER 157

UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

157.01 UNIFORM CODE ADOPTED. Pursuant to published notice and public hearing as required by law, the *Uniform Code for the Abatement of Dangerous Buildings*, 1997 Edition, published by the International Conference of Building Officials, is adopted and the whole thereof is incorporated by reference as though fully set out herein. An official copy of the *Uniform Code for the Abatement of Dangerous Buildings* is on file in the office of the Clerk.

[The next page is 745]

CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose
160.02 Definitions
160.03 Lands to Which Chapter Applies
160.04 Compliance
160.05 Abrogation and Greater Restrictions
160.06 Interpretation
160.07 Warning and Disclaimer of Liability
160.08 General Flood Plain Management Standards
160.09 Special Floodway Standards
160.10 Special Shallow Flooding Areas Standards
160.11 Administration
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160.13 Application for Permit
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160.15 Construction and Use to Be as Provided in Application and Plans
160.16 Variances
160.17 Factors Upon Which the Decision to Grant Variances Shall be Based
160.18 Conditions Attached to Variances
160.19 Nonconforming Uses
160.20 Amendments

160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

2. Vulnerable Uses Protected. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

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

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)

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

3. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the community's Flood Insurance Rate Map. May also be referred to as "existing structure."

5. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.

6. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. "Factory-built home" means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. "Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.

13. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been

certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.08(4)(A); and

B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and

D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. "100-Year Flood" means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. "Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. "Special flood hazard area" means the land within a community subject to the "100-year flood." This land is identified as Zone A, AE, A1-A30, AO, and AH on the City's Flood Insurance Rate Map.

24. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

29. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands and uses which have significant flood hazards. The Flood Boundary and Floodway Map and the Flood Insurance Rate Map (FIRM), dated March 16, 1983, which were prepared as part of the Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering flood plain management regulations.

160.04 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.05 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

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

160.07 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.08 GENERAL FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the areas of significant flood hazard shall:

   A. Be consistent with the need to minimize flood damage.

   B. Use construction methods and practices that will minimize flood damage.

   C. Use construction materials and utility equipment that are resistant to flood damage.

   D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement,

elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All new and substantially improved structures:

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

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

A. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into

the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.08(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.08 (5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.09 SPECIAL FLOODWAY STANDARDS. In addition to the general flood plain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of

flood waters. Where floodway data has been provided in the flood insurance study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

2. All uses within the floodway shall:

A. Be consistent with the need to minimize flood damage.

B. Use construction methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to flood damage.

3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable general flood plain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.10 SPECIAL SHALLOW FLOODING AREAS STANDARDS. In addition to the general flood plain standards, uses within shallow flooding areas must meet the following applicable standards.

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

160.11 ADMINISTRATION. The City Administrator/Clerk shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.

3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures.

4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood-proofed.

5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

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

160.13 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.

4. Flood Elevation. Elevation of the 100-year flood.

5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.

6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.14 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.15 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or

construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.16 VARIANCES. The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

5. Approval. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

160.17 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for

variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept on to other land or downstream to the injury of others.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the City.

6. The requirements of the facility for a flood plain location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

160.18 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.17, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.

2. Limitation of periods of use and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.

5. Floodproofing measures.

160.19 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.20 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE AND MAP. This chapter shall be known and may be cited and referred to as the West Branch Zoning Ordinance. The map herein referred to, identified by the title "Zoning District Map, West Branch, Iowa" dated April 1, 1991, and all explanatory matter thereon are hereby adopted and made part of this chapter[†].

165.02 PURPOSE AND AUTHORITY. The zoning regulations and districts herein set forth are made in accordance with a comprehensive plan. They are designed to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements. They are made with reasonable consideration, among other things, to the character of area of each district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout West Branch. For the purpose of promoting the health, safety, morals, or the general welfare of the

[†] (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

community, the Council is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. The authority of this chapter is based upon the right of the Council as empowered by the provisions of Chapter 414 of the Code of Iowa.

165.03 CONFLICT AND VALIDITY. Wherever the regulations made under authority of this chapter require greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of Chapter 414, the provisions of such statute or local ordinance or regulation shall govern. Wherever any regulation proposed or made under authority of Chapter 414 relates to any structure, building, dam obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the Iowa Department of Natural Resources shall be required to establish, amend, supplement, change, or modify such regulation or to grant any variation or exception therefrom. Should any section clause or provision of this chapter be declared invalid, such shall not affect the validity of the remaining portions of this chapter.

165.04 DEFINITIONS. Unless otherwise stated, the following words shall have the meanings herein indicated.

1. "Accessory building" means a detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use. Such a building shall not include dwelling units or living quarters.

2. "Accessory use" means a use subordinate to the main use of land or a building on a lot and customarily incidental thereto.

3. "Agriculture" means an area which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further, "farming" does not include large scale commercial feeding of livestock.

4. "Alley" means minor ways which are used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

5. "Alterations, structural" means any change in the building load-bearing members of a building, such as bearing wall, partitions, columns, beams, or girders. The enlargement of the side or height of a building shall be construed to be a structural alteration.

6. "Apartment" means a room or suite of rooms, with toilet and culinary accommodations, used or designed for use as a residence by a family, or any two or more people, located in a building containing two (2) or more such rooms or suites, or located in a building devoted primarily to non-residential use.

7. "Auto laundry" means a building or portion thereof, where automobiles are washed commercially, or equipment is rented for the same purpose.

8. "Automobile sales room" means a building or portion thereof where automobiles and vehicles are sold by a franchised dealer either with or without storage, parts sales, and repair facilities, providing all such repair activities are enclosed within a structure.

9. "Basement" means a story partly or wholly underground. Where more than one-half (½) its height is above the established curb level or above the average level of the adjoining ground where the curb level has not been established, a basement shall be counted as a story for purpose of height measurement.

10. "Boarding house" means a building or place, other than a fraternity or sorority house, where lodging and/or boarding is provided by pre-arrangement for definite periods of time for compensation, for no more than ten (10) persons and is not open to transient guests.

11. "Building" means any enclosed space for human use or activities, whether stationary, temporary or movable. When any portion of a building is completely separated from any other portion thereof by a division from any other openings or by a fire wall, then each such portion shall be deemed to be a separate building. "Principal building" means a building, including covered porches, carports and attached garages, in which is conducted the principal use of the lot on which it is situated. In any residence district the main dwelling shall be deemed to be the principal building on the lot on which the same is situated.

12. "Building, height of" means the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

13. "Building line" means an imaginary line parallel to all lot lines over which no portion of any building may extend and which is a distance from the front lot line equal to the depth of the front yard required for the distance in which such lot is located.

14. "Carport" means a form of private garage providing space for housing or storage of one or more automobiles and enclosed on not more than two (2) sides by walls. The dimensions determining the overall size of the carport shall be measured from the extreme edge or any part of the building.

15. "Centerline" means the true centerline of a street which has been fully dedicated to its required width. Where all of the required width of public right-of-way has not been dedicated or such public right-of-way has not been dedicated or such public right-of-way exists in an offset or angular manner, the City Engineer shall determine the alignment of the centerline.

16. "Clinic" means an establishment where patients are not lodged overnight, but are admitted for examination and treatment by physicians or dentists practicing medicine together.

17. "Club" or "lodge" means an association of persons organized for the promotion of service to others, who are bona fide members paying annual dues, which owns, hires or leases a building, or portion thereof except a fraternity or sorority, the use of such premises being restricted to members and their guests. It is permissible to serve food and beverages to members and their guests on such premises provided adequate dining

room space and kitchen facilities are available and are operated in compliance with the State and local laws.

18. "Dwelling" means a building used exclusively for permanent residential occupancy or portion thereof, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including a mobile home designed or used primarily for residential occupancy, or hotel, motel, apartments, boarding, lodging or rooming house, tents, cottage camps or other structures designed or used primarily for transient residents.

A. "Dwelling, single-family" means a detached building, designed or used exclusively for occupancy by one family.

B. "Dwelling, two-family" means a building designed or used exclusively for occupancy by two families.

C. "Dwelling, multiple-family" means a building, or portion thereof, containing three dwelling units or more.

D. "Dwelling unit" means one or more rooms in a dwelling which are arranged, designed, used or intended for use as living quarters for one family. This includes permanent kitchen and bathroom facilities.

19. "Family" or "household" means one or more persons related by blood, marriage or adoption, occupying a dwelling unit as an individual housekeeping entity; and as such may include no more than two persons not related by blood, marriage or adoption.

20. "Feedlot" means a commercial venture under corporate partnership or individual ownership involving the assemblage of livestock for the express purpose of preparation for market in the least time possible, purchasing over 75% of its feed, and characterized by rapid turnover of livestock; the absence of dwelling unit or structure for housing livestock and presence of other uses normally associated with a farm.

21. "Floor area" means the total number of square feet of floor space as determined by the outside dimensions of the building, not including space in basements; however, if the basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

22. "Garage, private" means an enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service

is conducted for profit therein or space therein for more than two vehicles is rented to non-residents of the premises.

23. "Garage, repair" means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, parts sales and adjusting or equipping of automobiles or other motorized equipment.

24. "Grade" means:

A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

B. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalks at the centers of all walls adjoining streets; or

C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the City Engineer.

25. "Home occupation" means an occupation or a profession which:

A. Is customarily carried on in a dwelling unit or a building or other structure accessory to a dwelling unit or in a building or other structure accessory to a dwelling unit, and

B. Is carried on by a member of the family residing in the dwelling unit for residential purposes, and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and

D. Which conforms to the following additional conditions:

(1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto – and shall not occupy more than fifty percent (50%) of the floor area of one story.

(2) Not more than one person outside the family shall be employed in the home occupation;

(3) There shall be no display or indication visible from the exterior storage of materials and no other exterior

indication of the home occupation or variation from the residential character of the principal building except as permitted by Section 165.38.

(4) No noise, vibration, smoke, dust, odors, heat or glare shall be produced which is detrimental to the residential character of the zoning district in which it is located.

26. "Hotel" means a building occupied as the more or less temporary abiding place of individuals who are lodged, with or without meals, and in which there are more than ten (10) sleeping rooms usually occupied independently.

27. "Inn" means a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals, and in which there are fewer than ten (10) sleeping rooms.

28. "Junk yard" means an area of land with or without buildings used for or occupied by a deposit, collection, or the storage, outside of a completely enclosed building, of used and/or discarded materials, house furnishing, machinery, vehicles, or parts thereof with or without the dismantling, processing, salvage, sale or other use of disposition of the same. Junk yards are prohibited within the City limits.

29. "Kennel" means any lot or premises on which four or more domestic animals or pets at least four months of age are harbored.

30. "Lot" means a parcel of land legally described as a district portion or piece of land of record.

A. "Lot area" means the area of a horizontal plane bounded by vertical planes containing the front, side and rear lot lines.

B. "Lot, corner" means a lot situated at the junction of and abutting on two (2) or more intersecting streets or adjoining a curved street at the end of a block.

C. "Lot coverage" means the area of a zoning lot occupied by the principal building or buildings and accessory buildings.

D. "Lot depth" means the mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

E. "Lot frontage" means that boundary of a lot along a public street; for a corner lot the owner may elect either street line as the front lot line.

F. "Lot line: means a property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

G. "Lot, interior" means a lot other than a corner or reversed corner lot.

H. "Lot line, front" means the front property line of a zoning lot.

I. "Lot line, interior" means a side lot line common with another lot.

J. "Lot line, rear" means the lot line or lot lines most nearly parallel to and most remote from the front lot line.

K "Lot of record" means a lot which is part of a subdivision the map of which has been recorded in the office of the County Recorder of Deeds of Cedar County or a parcel of land the deed of which was recorded in the office of the County Recorder of Cedar County prior to the adoption of the Zoning Ordinance.

L "Lot line, side" means a lot line other than front or rear lot lines.

M. "Lot, reversed corner" means a corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

N. "Lot, through" means a lot having frontage on two (2) parallel streets, or approximately parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

O. "Lot width" means the mean horizontal distance between the side lot lines measured within the boundaries, or between the side lot lines within the buildable area.

31. "Mobile home or trailer" means a vehicle with or without motive power used or adaptable for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, which does not meet the Building Code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" includes "camper" and "house car." A permanent foundation shall not change its character, nor shall the erecting of additions to said

trailer, unless the trailer itself and any additions thereto conform to all City laws.

32. "Hotel, motor court, motor lodge or tourist court" means any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients.

33. "Nonconforming use" means any building or land lawfully occupied by a use at the time of passage of the Zoning Ordinance or amendment thereto which does not conform after the passage of such ordinance or amendment thereto, with the use regulation of the district in which it is situated.

34. "Nursing home" means a home for the aged or infirm, in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care, for compensation, but not including hospitals, clinics or similar institutions.

35. "Parking space" means an off-street space accessible and available for the parking of one motor vehicle and having an area of not less than one hundred-eighty (180) square feet, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of an automobile.

36. "Public right-of-way" means all streets, roadways, sidewalks, alleys, and other areas reserved for present or future use by the public, as a matter of right for the purpose of vehicular or pedestrian travel or utility installation.

37. "Screen" or "fence" means a manmade enclosure or barrier regardless of material, extending above ground level including walls, earthen berms or free standing objects.

38. "Service stations" means any area of land, including structures thereon, that is used or designed to be used primarily for the sale of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles.

39. "Sign" means any structure or part thereof or device attached thereto or painted or represented thereon, which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or

representation used, as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard," but does not include the flag, pennant or insignia or authentic reproduction thereof of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

40. "Story" means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the coiling next above it. A basement is considered a story if used for dwelling purposes.

41. "Street" means a traveled portion of the public right-of-way between curb faces, if curb exists, which affords the principal means of access to abutting property.

42. "Structure" means anything constructed or erected which requires location on the ground, but not including fences or walls used as fences less than six (6) feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

43. "Use, principal" means the specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

44. "Yard" means the space on a lot extending along a lot line between such "lot line" and a principal building or buildings, or non-building use occupying such lot. Yard measurements shall be taken from the building line to the lot line.

A. "Front yard" means a yard extending the full width of the lot and situated between the front lot line and the building line. The depth of front yard shall be measured between the building line and the front lot line. Covered porches and garages, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

B. "Rear yard" means a yard extending the full width of the lot and situated between the rear line of the principal building and the rear lot line.

C. "Side yard" means a yard situated between the building line and the side lot line and extending from the front yard to the rear yard.

45. "Zero lot line units" means two single-family dwelling units joined together on either side of a common boundary line with a common wall between such units, and which have:

A. Separate or divided ownership of each single-family unit resulting from the division of the lot or parcel of land into two separate parcels done in such a manner as to result in a single-family unit being located on either side of the common wall.

B. A standard fire wall between the separate units that is built in such a manner as to allow no connection other than the wall itself between the units.

C. Restrictive and protective covenants providing that any owners of the two-unit family dwelling shall be jointly and severally liable for the maintenance and repair of the common wall, as well as all other common aspects. Separate water and sewer lines shall be furnished to each unit. The covenants, after approval by the City, shall be recorded in the Office of the County Recorder and shall be covenants running with the land.

46. "Driveway" means a surface designed to provide access from the street to, across or onto private property. ***(Ord. 573 – Sep. 04 Supp.)***

165.05 NONCONFORMING USES AND STRUCTURES. The continuance of nonconforming uses or structures shall be subject to the following limitations:

1. Continuation. Any lawful use of a building or land existing at the effective date of the Zoning Ordinance may be continued, although such use does not conform to the provisions of such ordinance.

2. Extension. A nonconforming use shall be allowed one twenty-five percent (25%) expansion of the building. Said expansion shall not exceed twenty-five percent (25%) of the floor area. The extension of a conforming use to any portion of a nonconforming building which existed prior to the effective date of the Zoning Ordinance shall not be deemed the extension of a nonconforming use.

3. Restoration. No building damaged by fire or other cause to the extent of more than fifty percent (50%) of its value shall be repaired or rebuilt, except in conformity with the regulations of this chapter.

4. Abandonment. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished and any subsequent use shall be in conformity with the provisions of this chapter.

5. Substitution of Nonconforming Uses. No nonconforming use may be changed to any other nonconforming use, unless the Board of Adjustment finds that the proposed nonconforming use is no more detrimental to the district than the existing nonconforming use of the property. The Board of Adjustment may specify such appropriate conditions and safeguards as may be required in connection with such change.

6. Repairs and Maintenance. Ordinary repairs and maintenance of a structure containing a nonconforming use shall be permitted.

7. Change in Use. A nonconforming use shall not be changed except to a conforming or to another use of a higher or more restrictive classification as provided in this chapter. A change of a nonconforming use in an Industrial District to a use which is residential shall not be permitted.

8. Amortization of Nonconforming Signs. Signs and billboards which exist off the site of principal use on the date of the adoption of the Zoning Ordinance and which are nonconforming in accordance with the ordinance shall be made to conform within a period of three years from said date.

9. Amortization of Nonconforming Use of Open Land. All nonconforming junk yards, storage areas and similar nonconforming uses of open land not involving a substantial investment in permanent buildings shall be torn down, altered or otherwise made to conform within three years from the date of the adoption of the Zoning Ordinance.

165.06 WATER AND SEWAGE REQUIREMENTS. All proposed buildings and uses requiring sewage facilities where public sewer and/or water is not available shall conform to requirements and standards of the Cedar County Board of Health.

165.07 ACCESSORY BUILDINGS.

1. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

2. An accessory building may not be located nearer to any interior lot line than that permitted for the main building, when any part of the accessory building is on line with the main building, if extended. However, when an accessory building is located in the rear yard, it may then be located within three (3) feet of the interior lot line, but not nearer than five (5) feet of the rear lot line.

3. An accessory building shall not be bigger than the principal building.

165.08 ZONING OF NEW OR ANNEXED LAND. Prior to the annexation of any territory to the City, a plan for zoning the area to be annexed shall be forwarded to the Council by the Planning and Zoning Commission. All territory which may hereafter be annexed to the City shall be automatically classified in the same or similar type of district it was prior to annexation until otherwise changed by ordinance after public hearing.

165.09 APPROVED PLATS. Plats of record before the enactment date of the Zoning ordinance shall not be affected by this chapter except as buildings are proposed, they shall conform to yard requirements of the appropriate Zoning District.

165.10 STREET FRONTAGE REQUIRED. All lots to contain a building shall abut a public street for the required frontage in the district in which it is located; one single family dwelling may utilize a private easement of not less than 20 feet wide and abutting upon a public street, if approved by the Zoning Board of Adjustment.

165.11 PERMITTED OBSTRUCTION IN REQUIRED YARDS. The following obstructions, when located in the minimum area required for specified yards, shall be permitted.

1. In all yards:

   A. Chimneys projecting eighteen (18) inches or less into the yard;

   B. Flag poles;

   C. Ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than eighteen (18) inches into a yard;

   D. Ornamental light standards;

   E. Steps which are necessary for access to permitted buildings or for access to lots from streets and required exterior fire escapes.

2. In front yards:

   A. Fuel pumps and air and water outlets in conjunction with automobile service stations, provided they shall be set back at least fifteen (15) feet from the front lot line;

B. One-story bay windows projecting three (3) feet or less into the yard;

C. Open terraces not over four (4) feet above the average level of the adjoining ground and not projecting over ten (10) feet into a yard, but not including permanently roofed-over terraces or porches;

D. Signs and nameplates, as regulated therein.

3. In rear yards:

A. Air-conditioning condensers for central air conditioning units;

B. Arbors and trellises;

C. Balconies of not more than five (5) feet into the required yard;

D. Breezeways and open porches;

E. Private garage;

F. One-story bay windows projecting three (3) feet or less into the yard;

G. Overhanging roof eaves and gutters, provided eaves and gutters of detached accessory buildings are not less than two (2) feet from a lot line;

H. Fences;

I. Open terraces not over four (4) feet above the average level of the adjoining ground, but not including permanently roofed-over terraces or porches;

J. Open accessory off-street parking spaces;

K. Playground and laundry-drying equipment;

L. Private swimming pools and tennis courts;

M. Sheds, tool rooms or similar buildings customarily accessory to the principal use.

N. Satellite dish.

4. Side yards:

A. Open accessory off-street parking spaces;

B. Overhanging eaves and gutters projecting twenty-four (24) inches or less into the yard;

C. Fences;

D. Air-conditioning condenser for air-conditioner units.

165.12 CORNER LOTS.

1. Side yard requirements for corner lots shall be the same as the front yard requirements for those lots to the rear of said corner lot abutting on the intersecting street.

2. A lot fronting on two (2) intersecting streets which form an interior angle of one hundred-thirty-five degrees (135º) or less and which lot has a frontage of not less than twenty-five (25) feet on each of such streets.

3. A lot located at the angle in the street where the interior angle formed by the intersection of the street lines is one hundred thirty-five degrees (135º) or less and which lot has a frontage of not less than twenty-five (25) feet on each leg of such angle.

165.13 REDUCTION OF LOTS AND PARTS OF OTHERS. No lot shall be sold, divided, or set off in such a manner that either the portion sold, divided or set off or the portion remaining shall be less than the minimum size prescribed by the regulations relating to the district in which it is situated, unless it becomes a part of an adjacent lot meeting requirements.

165.14 NUMBER OF BUILDINGS ON ZONING LOT. Only one principal detached residential building shall be located on a zoning lot, and a principal detached residential building shall not be located on the same zoning lot with any other principal building.

165.15 ENFORCEMENT. The Council shall appoint a zoning officer to enforce the provisions of this chapter. It shall be the zoning officer's duty to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits with accompanying plans and documents, and make such reports as the Council may require. Permits for construction and uses which would be a violation of this chapter and that require a special exception or variance to requirements of this chapter shall be issued only upon written order by the Board of Adjustment as provided for in Section 165.22 of this chapter. ***(Ord. 659 – Mar. 11 Supp.)***

165.16 ZONING AND USE REGISTRATION PERMITS. A Zoning and Use Registration Permit shall be obtained from the zoning officer for any of the following:

1. Occupancy and use of a building hereafter constructed, enlarged, relocated, reconstructed or altered.

2. Any change in the use of an existing building.

3. Occupancy and use of vacant land, or change in the use of land except for any use consisting primarily of tilling the soil.

4. No such occupancy, use, or change of the use shall take place until a Zoning and Use Registration Permit therefore has been issued by the zoning officer. No Zoning and Use Registration Permit shall be issued unless the proposed occupancy is in full conformity with all the provisions of this chapter.

5. A Zoning and Use Registration Permit shall be deemed to authorize, and is required for both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect, so long as such buildings and the use thereof or the use of such land is in full conformity with the provisions of this chapter and any requirements made pursuant thereto. However, on the serving of written notice by the zoning officer of any violation or any of said provisions or requirements with respect to any building or the use thereof or of land, the Zoning and Use Registration Permit for such use shall thereupon without further action, be null and void, and a new Zoning and Use Registration Permit shall be required for any further use of such building or land.

6. Any permit or approval which may be issued by the zoning officer shall be in effect for a period of one year from date of issuance. A six-month extension shall be granted upon written request by the permit holder to the zoning officer. Upon the end of the six-month extension a permit shall be deemed expired and a new permit application shall be submitted for review and approval and all associated permit fees shall be assessed before said work shall continue to commence.

(Ord. 659 – Mar. 11 Supp.)

165.17 APPLICATION FOR PERMITS. Applications for Zoning Permits shall be made to the zoning officer in writing upon forms approved by the Board of Adjustment prior to starting construction or establishing a use, and such forms shall be filled in by the owner, or authorized agent, and shall be

accompanied by a plan in duplicate, drawn to scale, showing the actual lot dimensions, use and intended use, height, size and location of building or buildings and shall be accompanied by such data as may be required. Such plans and data shall be final and conclusive and any deviation therefrom shall require a new Zoning and Use Registration Permit.

165.18 APPEALS. Appeals from the decision of the zoning officer may be made to the Board of Adjustment by any person aggrieved or by an officer of the City or member of the Council. The applicant shall file with the zoning officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The zoning officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within a reasonable time as provided by the rules of the Board.

165.19 PENALTIES. For each and every violation of the provisions of this chapter the owner, contractor or other persons interested as general agent, architect, engineer, land surveyor, building contractor, owner, tenant, or any other persons who commit, take part, or assist in any violation of this chapter, or who maintain any building or premises or uses of land in violation of this chapter, shall for each and every violation be imprisoned for a period not exceeding thirty days (30) or be fined not exceeding one hundred dollars ($100.00) or both, at the discretion of the judicial officer before whom such a conviction may be had. Whenever such person shall have been officially notified by the zoning officer or by service or a summons in a prosecution, or in any other official manner, that said person is committing a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty.

165.20 BOARD OF ADJUSTMENT. A Board of Adjustment is hereby established as provided in Chapter 414 of the State Code of Iowa, as amended, the members of which shall be appointed by the Council for staggered terms of five (5) years. The Board of Adjustment shall consist of five (5) members, none of whom shall hold an elective office or other official position in the City. The members of the Board shall be removable for cause by the Council upon written charges and after public hearing. A vacancy shall be filed by the Council for the unexpired term of any member who resigns, dies, or is removed. The Board shall elect a Chairperson from its members, and a Secretary who may, but need not, be a member of the Board.

165.21 EXPENSES OF THE BOARD OF ADJUSTMENT. The Board shall have authority to expend such sums as may be appropriated by the Council.

165.22 POWERS OF THE BOARD. The Board of Adjustment shall have the following powers:

1. Administrative Review. To hear and decide appeals where it is alleged by the appellants that there is error in any order, requirement, permit, decision, determination or refusal made by the zoning officer or other administrative official in the carrying out or enforcement of any provision of this chapter, and for interpretation of the Zoning Map.

2. Vote Required. The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order or decision of an administrative official.

3. Special Exceptions. To hear and decide applications for special exceptions as specified in this chapter and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

4. Variance. To hear and decide applications for variance from the terms of this chapter because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present.

   A. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.

   B. Strict application of the provisions of this chapter would deprive the applicant of reasonable use of the land, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this chapter.

   C. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this chapter.

5. Financial disadvantage to the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

6. The Board does not possess the power to permit a use not generally or by special exception, permitted in the district involved.

7. In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this chapter. Violation of any of these conditions or safeguards shall be deemed violation of this chapter.

165.23 AMENDMENTS.

1. Requirements for Change. Whenever the public necessity, safety, general welfare or good zoning practice justifies such action, and after consideration and recommendation by the Planning and Zoning Commission as provided herein, the Council may change zoning district boundaries, use groups or the regulations established by this chapter after public hearing for which public notice is given as provided in Chapter 414 of the State Code of Iowa.

2. Initiation of Change. A proposed change of zoning district boundaries or regulations may be initiated by the Council, City Planning and Zoning Commission, or by application of one or more of the owners of property within the area requested to be changed.

3. Consideration. Every three months or at the discretion of the zoning officer, the City Planning and Zoning Commission will set a public hearing to consider requested changes or amendments to the Zoning Ordinance or Zoning Map pursuant to the provisions of this section. Public notice for this meeting and changes to be considered shall be given as provided in Chapter 414.4 of the State Code of Iowa as amended. The re-zoning process as specified herein for newly annexed areas or amendments to the text proposed by the City itself may be undertaken at any time.

4. Site Plan and Schedule. All requests for changes in Zoning Map shall be accompanied by the following:

A. Intentions. A complete statement giving reasons and intentions for the planned future use of the area proposed for amendment.

B. Site Plan. A site plan, showing existing and proposed structures, uses, open spaces, facilities for parking and loading, and arrangements for pedestrian and vehicular circulation of the area proposed for amendment and all abutting properties with their use and zoning district defined.

C. A proposed time schedule for beginning and completion of development.

5. Fees and Expenses. All requests for changes in the Zoning Ordinance or Map, except those initiated by the Council or City Planning and Zoning Commission, shall be at the expense of the person requesting said change. Said expense shall include costs of publication, fees paid for special Council meetings, and engineering and legal fees in connection with said zoning change. At the time said request for change is made, a deposit of one hundred fifty dollars ($150.00), unless waived by resolution of the Council, shall be paid to the Clerk. This amount shall be applied towards the costs of said requested change.

6. Notice Requirements. It is the obligation of the party requesting a change in the Zoning Ordinance or map to send notice of the date, time and place of the public hearing before the Planning and Zoning Commission and the Council, by regular mail at said party's own cost, to the owners of the property to be affected by said proposed change and to the owners of property located within two hundred (200) feet of the exterior boundaries of the property to be affected by said change. Proof of the mailing of notice must be on file at the Clerk's office by the time of the public hearing before the Planning and Zoning Commission.

7. Protest Against Change. In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or by the owners of twenty percent (20%) or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which such change is proposed, such amendment shall not become effective except by the favorable vote on at least three-fourths of all the members of the Council. Such signed protest must, however, be presented to the Council before or at the time of the public hearing before the Council. The provisions of Section 414.4 relative to public hearings and official notice shall apply equally to all changes or amendments.

165.24 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES. For the purpose of this chapter, the City is hereby divided into the following districts:

Agricultural	A-1		District
Residence	R-1	Single Family	District
Residence	R-2	Two Family	District
Residence	R-3	Multiple Family	District
Residence/Business	RB-1		District

Business	B-1	District
Business	B-2	District
Industrial	I-1	District
Industrial	I-2	District
Flood Plain	FP	District
Highway Commercial Industrial	HCI	District
Central Business	CB-1	District
Central Business	CB-2	District
Central Industrial	CI-2	District
Park	P	District

Said districts are bounded and defined as shown on a map entitled "Zoning District Map, West Branch, Iowa," adopted April 1, 1991, which, with all explanatory matter therein, is hereby made a part of this chapter.

165.25 INTERPRETATION OF DISTRICT BOUNDARIES.

1. Where a boundary line is shown as approximately following the centerline of a street or highway, a street line or highway right-of-way, this centerline, street line or right-of-way line shall be construed to be such boundary. The boundary line will be changed automatically, whenever the said centerline, street line or highway right-of-way line is changed, provided that the change does not exceed twenty (20) feet.

2. Where a boundary line is shown as following a lot line, such lot line shall be construed to be said boundary.

3. Where a boundary line follows a stream, such boundary shall be deemed to be the centerline of said stream. For any lake, pond, reservoir, river or other body of water, the regulations of the most restrictive adjacent district in which they are located shall apply.

4. Where a boundary line is shown as approximately parallel to a street, highway, stream, or railroad line, such boundary shall be construed as being parallel thereto and at such distance from the centerline thereof as is indicated on the zoning map.

5. Where a district boundary line divided a lot which was held in single and separate ownership, at the time the boundary line was established, the use regulations applicable to the least restricted district shall extend over the portion of the lot in the more restricted district, a distance of not more than thirty (30) feet beyond the district boundary line.

165.26 A-1 DISTRICT REQUIREMENTS.

1. Permitted Uses. In Agricultural A-1 District, the provisions of this section shall apply and the following uses shall be permitted:

A. Single family dwelling.

B. Churches and similar places of worship.

C. Public and parochial schools of general instruction.

D. Public libraries, museums, parks, playgrounds and similar community facilities.

E. Governmental administration and services such as office, firehouse, police, first aid, civil defense, and like uses; however, this section shall not be interpreted to permit such uses as warehousing, indoor and outdoor storage of vehicles, road building equipment and supplies.

F. Agriculture as a living provided there is no display of products other than in growth visible from the street.

G. Accessory uses incidental to any of the foregoing permitted uses, such as private garages, parking lots, etc.

H. Golf courses, country clubs, tennis courts, and similar recreational uses.

I. Temporary buildings for construction purposes for a period not to exceed the completion date of such construction.

2. Uses Allowed by Special Exceptions of the Board of Adjustment:

A. Public utility substation or pumping station, upon a showing that such structure is essential to serve the immediate neighborhood, that it cannot be located in any other type of district and that it is housed in buildings that harmonize with the character of the neighborhood and has adequate screening and landscaping and meets all other standards of this chapter.

B. Customary incidental home occupation which is carried on as an accessory use by one or more members of the family residing on the premises, and (i) which shall be carried on wholly within a completely enclosed building; (ii) in the activity not more than one-half of the floor area of any one floor or basement shall be used; (iii) in the conduct of said activity not more than one person outside the family shall be employed; and (iv) such customary home occupation must be in keeping with the character

of the neighborhood in which located and must not materially depreciate property values in the immediate area. Such use must also satisfy the other regulations prescribed herein.

C. Swimming pool meeting recognized construction and safety standards and all other requirements of this chapter.

D. Private schools of general instruction, whether or not operated for profit.

E. Non-municipal libraries, museums, art galleries and community centers, whether or not operated for profit, and non-commercial clubs, lodges or fraternal organizations.

F. Hospitals, provided that the Health Officer of the City shall first certify that in the proposed location, such use will not have a detrimental effect on the health of the surrounding neighborhood and further provided that a nurses' home as an accessory use is permitted only on the same lot as the hospital.

G. Removable roadside stands for the sale of farm products produced on the premises, provided however, that any such stand shall be situated not less than forty (40) feet from the street right-of-way line or lot line and shall have adequate off-street parking facilities, and in no event, less than four (4) parking spaces. Such stands shall be removed during seasons when products are not being offered for sale.

H. Accessory uses incidental to any of the foregoing special exceptions.

3. Area Regulations. The following regulations as to the area shall apply to the Agricultural A-1 District.

A. Lot Area and Width. A lot area of not less than 20,000 square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than one hundred and twenty (120) feet.

B. Front Yard. There shall be a front yard on each street on which a lot abuts, which yard shall be not less than fifty (50) feet in depth.

C. Side Yard. There shall be two (2) side yards on each lot, neither of which shall be less than twenty (20) feet in depth.

D. Rear Yard. There shall be a rear yard on each lot, which yard shall not be less than seventy (70) feet.

165.27 R-1 DISTRICT REQUIREMENTS.

1. Permitted Uses. In Residential R-1 District, the provisions of this section shall apply and the following uses permitted:

A. All uses allowed by right in Agricultural A-1 District except that there shall be no raising or pasturing of livestock, poultry or other commercial domestic animals or birds.

B. Boarding house, provided that not more than four (4) such boarders shall be permitted without special exception by the Board of Adjustment and by the Health Officer of the City.

C. Public utility substations or pumping stations meeting the requirements of Section 165.26(2)(A).

D. Private schools of general instruction.

E. Accessory uses customarily incidental to any of the foregoing permitted uses.

F. Funeral homes.

2. Uses Allowed by Special Exception by the Board of Adjustment.

A. All uses allowed by special exception in the Agricultural A-1 District, except that roadside stands are specifically prohibited.

B. Vocational or trade schools, whether or not operated for profit.

C. Retirement or nursing home.

D. Child Care Centers under the following conditions:

(1) Any person who operates in the City a child care center where there are more than six (6) children shall first make application for a special exception permit. Said application to be available at the office of the Clerk.

(2) Upon receipt of a completed and executed application, the Clerk shall present the said application to the Board of Adjustment at its next regular meeting. The Board of Adjustment shall establish a date for public hearing within thirty (30) days and authorize the Clerk to send written notice by ordinary mail to all persons living in and/or owning property within 500 hundred feet of the proposed child care center.

(3) At the public hearing all persons shall be heard upon the issues of the location, number of children, loading, parking and safety. At the close of said meeting the Board of Adjustment will set a time within thirty (30) days when it shall act to issue or refuse to issue a special exception permit.

(4) If a special exception permit is issued, the Board of Adjustment may set reasonable standards as to number of children, parking, loading and other safety and nuisance standards, but in any event all standards established by the State of Iowa must be met.

3. Area Regulations. The following regulations as to the area shall apply to the Residence R-1 District.

A. Lot Area and Width. A lot area of not less than seven thousand, seven hundred (7,700) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than seventy (70) feet.

B. Front Yard. There shall be a front yard on each street on which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth.

C. Side Yard. There shall be two (2) side yards on each lot, neither of which shall be less than eight (8) feet in depth.

D. Rear Yard. There shall be a rear yard on each lot, which yard shall not be less than twenty-five (25) feet in depth.

165.28 R-2 DISTRICT REQUIREMENTS.

1. Permitted Uses. In Residential R-2 District, the provisions of this section shall apply and the following uses permitted:

A. All uses allowed by right in the Residence R-1 District.

B. Two-family dwellings.

C. Boarding house.

D. Zero lot line units.

2. Uses Allowed by Special Exception by he Board of Adjustment.

A. All uses allowed by special exception in the Residence R-1 District.

B. Conversion into two-family, in accordance with subsection 3 of this section.

C. Child Care Centers under the following conditions:

(1) Any person who operates in the City a child care center where there are more than six (6) children shall first make application for a special exception permit. Said application to be available at the office of the Clerk.

(2) Upon receipt of a completed and executed application, the Clerk shall present the said application to the Board of Adjustment at its next regular meeting. The Board of Adjustment shall establish a date for public hearing within thirty (30) days and authorize the Clerk to send written notice by ordinary mail to all persons living in and/or owning property within 500 hundred feet of the proposed child care center.

(3) At the public hearing all persons shall be heard upon the issues of the location, number of children, loading, parking and safety. At the close of said meeting the Board of Adjustment will set a time within thirty (30) days when it shall act to issue or refuse to issue a special exception permit.

(4) If a special exception permit is issued, the Board of Adjustment may set reasonable standards as to number of children, parking, loading and other safety and nuisance standards, but in any event all standards established by the State of Iowa must be met.

3. Area Regulations. The following regulations as to area shall apply to the Residence R-2 District.

A. Lot Area and Width.

(1) Single-family Structures. A lot area of not less than 6,000 square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than sixty (60) feet. Any building hereafter so erected shall not be allowed to be converted to a multiple-family dwelling without meeting square footage requirements for multiple-family dwelling in that district.

(2) Two-family Dwellings. Two-family dwellings shall have frontage of not less than seventy (70) feet and lot area not less than eight thousand, four hundred (8,400) square feet.

B. Front Yard. There shall be a front yard on each street on which a lot abuts, which yard shall be no less than twenty-five (25) feet in depth.

C. Side Yard. There shall be two (2) side yards on each lot, neither of which shall be less than eight (8) feet in depth.

D. Rear Yard. There shall be a rear yard on each lot, which yard shall not be less than twenty-five (25) feet in depth.

165.29 R-3 DISTRICT REQUIREMENTS.

1. Permitted Uses. In Residential R-3 District, the provisions of this section shall apply and the following uses permitted:

A. All uses allowed by right in the Residence R-2 District.

B. Multiple-family dwellings up to 12 units.

C. Child care centers.

D. Zero lot line units.

2. Uses Allowed by Special Exception by the Board of Adjustment.

A. All uses allowed by special exception in Residence R-2 District.

B. Conversion into two-family or multiple-family dwellings in accordance with subsection 3 of this section.

C. Mobile Home Park in accordance with subsection 4 of this section.

D. Multiple-family dwellings over 12 units.

3. Area Regulations. The following regulations as to area shall apply to the Residence R-3 District (except mobile home parks).

A. Every one-family dwelling hereafter erected shall be located on a lot having an area of not less than 6,000 square feet and a minimum width at the established building line of sixty (60) feet. Any building hereafter so erected shall not be allowed to be converted to a multiple-family dwelling without meeting square footage requirements for multiple-family dwelling in that district.

B. Every two-family detached dwelling hereafter erected shall be located on a lot having an area of not less than eight thousand four hundred (8,400) square feet and a minimum width at the established building line of seventy (70) feet.

C. Every multiple-family detached dwelling hereafter erected shall be located on a lot having a minimum area in accordance with the schedule below. A minimum lot width of eighty (80) feet at the established building line must be provided:

3 to 4-family ..... 10,000 square feet
5 to 8-family ..... 2,000 square feet per unit
9 to 12-family ..... 1,800 square feet per unit

D. Minimum lot sizes for special uses shall be prescribed and conditions stipulated at the time a special use permit is authorized. All such uses shall be served by a public sewer and water supply.

E. No zoning lot shall be built upon unless the lot is served by both public sewer and water supply approved by the City.

F. Front Yard. There shall be a front yard on each street an which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth.

G. Side Yard. There shall be two (2) side yards on each lot, neither of which shall be less than eight (8) feet in depth.

H. Rear Yard. There shall be a rear yard on each lot, which yard shall not be less than twenty-five (25) feet in depth.

4. Mobile Homes.

A. Mobile homes to be used for dwelling purposes shall be placed only in mobile home parks except as herein set forth. A mobile home park may be established only in designated districts provided a permit is secured as set forth herein.

(1) Permit. It is unlawful for any person to maintain or operate within the incorporated areas of the City any mobile home park unless such person shall first obtain a City permit.

(2) Application for a permit shall be accompanied by an inspection fee of $10.00.

(3) Any person desiring to operate a mobile home park shall first file application or approval of site location with the Planning and Zoning Commission. Applications shall be in writing, signed by the applicant, and shall contain the name and address of the applicant, the location and legal description of the site plan, and shall have attached thereto the written consent of seventy-five percent (75%) of the property owners within two hundred (200) feet of any part of the premises to be occupied for such use, exclusive of any public street or highway right-of-way.

(4) After consideration of the application, the Planning and Zoning Commission shall submit its recommendations to the Council and the Council shall then grant or deny the application.

(5) Required as proof of such compliance shall include the following:

a. An approved set of plans showing lot and street layout.

b. Sewage and disposal system.

c. Water supply and distribution system.

d. Electrical distribution and lighting.

(6) When such approved plans have been submitted to the administrative officer, such officer shall then issue a permit for the construction of such facilities on the approved site.

B. Mobile homes located other than in mobile home parks. A mobile home may be placed on a farm as the principal dwelling unit. Also, one (1) mobile home may be placed on a farm in addition to an existing permanent dwelling, provided the occupant of said mobile home is active in the conduct of the agricultural operation of said farm. The above provision is not to be construed to permit two (2) mobile homes on one farm.

165.30 RB-1 DISTRICT REQUIREMENTS.

1. Permitted Uses. In Residence-Business RB-1 District, the provisions of this section shall apply and the following uses permitted:

A. Any use allowed in the Residence R-3 District provided that such use conforms to the area and use requirements of that district, except mobile homes.

B. Any local retail business or service establishment which supplies commodities or performs the following services primarily for residents of the surrounding neighborhood: grocery store, meat market, delicatessen, drug store, barber and beauty shops.

C. Business or professional office; medical or dental clinic.

D. Any use of the same general character as the above.

2. Area Regulations. Minimum lot area, lot frontage and yard requirements are as follows:

A. Dwellings.

(1) Single-family. Same as specified in the R-1 District.

(2) Multiple-family. Same as specified in the R-3 District.

B. Other Permitted Uses:

(1) Lot Area: None

(2) Lot Width: None

(3) Front Yard Depth: 25 feet.

(4) Side Yard: None required except adjoining an "R" District, in which case not less than 10 feet.

(5) Rear Yard: 25 feet, except where a court yard of equal square footage to that part of the rear yard replaced is substituted, in which case the structure may be no closer than 8 feet from the rear lot line where the lot abuts a lower or less restrictive zoning classification only.

165.31 B-1 DISTRICT REQUIREMENTS.

1. Permitted Uses. In the Business B-1 District, the provisions of this section shall apply and the following uses be permitted.

A. Retail or service store or shop.

B. Personal service shop or agency such as tailor, dressmaking, beauty, barber or shoe repair shop.

C. Medical or dental clinic.

D. Business, professional and governmental offices.

E. Hotels and motels, inns and apartment second floor or above.

F. Eating and drinking establishments, except those offering in-car services.

G. Theaters, except those offering in-car services.

H. Public transportation passenger facilities.

I. Telephone exchanges.

J. Child care centers.

2. Area Regulations. The following regulations as to area shall apply to the Business B-1 District.

A. All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a ten (10) foot side yard on the side abutting the residential district. When adjacent to other than residential districts, no side yard is required; however, where side yards are provided for such a building, each such side yard shall be not less than six (6) feet in width.

B. Front Yard. No front yard shall be required in the Business B-1 District.

C. Rear Yard. No building shall be within twenty (20) feet of the rear lot line.

D. When adjacent to other than residential districts, no side yard is required, provided fire wall is present.

165.32 B-2 DISTRICT REQUIREMENTS.

1. Permitted Uses. In the Business B-2 District, the provisions of this section shall apply and the following uses shall be permitted.

A. Any use allowed in Business B-1 District provided that hotels and motels meet the development standards of Section 165.46.

B. Indoor, outdoor or drive-in restaurants.

C. Indoor and outdoor amusements, such as theaters, amusement parks, drive-in theaters, bowling alleys, skating rinks, dance studios and commercial recreation areas.

D. Wholesale businesses, warehousing and storage, provided that all inventories located on the premises are stored within a completely enclosed structure.

E. Auto laundries, provided that their operative machinery within an enclosed structure and adequate drainage is provided.

F. Lumber yards.

G. Animal hospitals.

H. Truck terminals.

I. Building or construction supply business.

J. Fuel supply.

K. Milk depots.

L. Filling stations and repair garages.

M. Boat sales.

N. Restaurants.

O. Sales of new and used motor vehicles.

P. Light manufacturing.

Q. Building contractor facilities, yards and pre-assembly yards. ***(Ord. 667 – Mar. 11 Supp.)***

2. Area-Regulations. The following regulations as to area shall apply to the Business B-2 District.

A. All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a thirty (30) foot

side yard on the side abutting the residential district. All other side yards shall be a minimum of eight (8) feet.

B. Front Yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth.

C. Rear Yard. There shall be a rear yard on each lot, which yard shall be not less than twenty (20) feet in depth.

165.33 I-1 DISTRICT REQUIREMENTS.

1. Permitted Uses.

A. Advertising novelty manufacturers, assemblers or wholesalers.

B. Processing, assembly, handling or storage of plastic materials.

C. **Error! Reference source not found.**Assembly of small electrical instruments and devices, radios, phonographs and television sets, including the manufacture of small accessory parts, such as coils, condensers, transformers, crystal holders, and small products.

D. Compounding and packaging of drugs, pharmaceuticals, cosmetics, perfumes and toiletries.

E. Laboratories, research, experimental and testing.

F. Building contractor facilities, yards and pre-assembly yards.

G. Communications stations, centers, and studios.

H. Manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials such as but not limited to bone, canvas, cellophane, cement, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, metal, paper, plastics, precious or semi-precious metals or stones, rubber, shell, textiles, tobacco, wax, wire, wood (except logging camps, sawmills, and planing mills) and yards.

I. Compounding of chemicals and allied products except fertilizer manufacturing.

J. Manufacture, processing and packaging of food and kindred products (except grain milling and processing, stockyards and slaughterhouses).

K. Wholesale trade and warehouse establishments for goods such as but not limited to automobile equipment, drugs, chemicals and allied products, dry goods and apparel, groceries and related products, electrical goods, hardware, plumbing, heating equipment and supplies, machinery, equipment and supplies, tobacco and alcoholic beverages, paper and paper products, furniture and home furnishings.

2. Area Regulations.

A. Lot Requirements: None.

B. Yard Requirements:

(1) Front Yards. No building shall be constructed within twenty-five (25) feet of the front lot line in the I-1 District and forty (40) feet in the I-2 District.

(2) Side Yards. On lots adjacent to a residential district, all buildings and incidental areas shall be located so as to provide a minimum side yard of twenty (20) feet on the side adjacent to the residential district. All other side yards shall be a minimum of eight (8) feet.

(3) Rear Yards. No building shall be constructed within twenty (20) feet of the rear lot line.

3. Off-street Parking and Loading Requirements. Off-street parking and loading facilities shall be provided in accordance with Sections 165.38 and 165.41.

4. Building Height and Sign Regulations. See regulations prescribed in Sections 165.42 and 165.43.

165.34 I-2 DISTRICT REQUIREMENTS.

1. Permitted Uses: Any use permitted in Industrial 1-1 District.

2. Uses Allowed by Special Exception by the Board of Adjustment: Manufacturing, fabricating and processing, which has not previously been listed provided that the proposed use will not constitute a fire hazard or emit objectionable smoke, noise, vibration, odor or dust.

3. Prohibited Non-industrial Uses. In Industrial Districts, no building may be used in whole or in part for any of the following purposes.

   A. Residential uses or any dwelling use including hotels and motels.

   B. Restaurant, tavern, filling station, theater or other place of commercial recreation or amusement.

   C. School, church, hospital, sanitarium, correctional institution or other institutional use.

   D. Cemetery.

4. Prohibited Industrial Uses:

   A. Acid manufacture, or storage except on limited scale as an accessory to a permitted industry and under conditions specified by the Zoning Board of Adjustment.

   B. Slaughter house and stock yard.

   C. Manufacture of fertilizers.

   D. Garbage, waste materials, offal, dead animal, or refuse incineration or storage.

   E. Manufacture or storage of gun powder, fireworks or other explosives.

165.35 CB-1 DISTRICT REQUIREMENTS.

1. Permitted Uses.

   A. Retail or service store or shop.

   B. Personal service shop or agency such as tailor, dressmaking, beauty, barber or shoe repair shop.

   C. Medical or dental clinic.

   D. Business, professional and governmental offices.

   E. Hotels, motels, inns and apartment 2nd floor or above.

   F. Eating and drinking establishments, except those offering in-car services.

   G. Theaters, except those offering in-car services.

   H. Public transportation passenger facilities.

   I. Telephone exchanges.

2. Area Regulations.

   A. All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a ten (10) foot side yard on the side abutting the residential district. When adjacent to other than residential districts, no side yard is required; however, where side yards are provided for such a building, each such side yard shall be not less than six (6) feet in width.

   B. Front Yard. No front yard shall be required in the Central Business CB-1 District.

   C. Rear Yard. No building shall be within twenty (20) feet of the rear lot line.

   D. When adjacent to other than residential districts, no side yard is required provided fire wall is present.

165.36 CB-2 DISTRICT REQUIREMENTS.

1. Permitted Uses:

A. Any use allowed in Central Business CB-1 District.

B. Indoor, outdoor, or drive-in restaurants.

C. Indoor and outdoor amusements, such as theaters, amusement parks, drive-in theaters, bowling alleys, skating rinks, dance studios and commercial recreation areas.

D. Wholesale businesses, warehousing and storage, provided that all inventories located on the premises are stored within a completely enclosed structure.

E. Auto laundries, provided that their operative machinery is within an enclosed structure and adequate drainage is provided.

F. Lumber yards.

G. Animal hospitals.

H. Truck terminals.

I. Building or construction supply business.

J. Fuel supply.

K. Milk depots.

L. Filling stations and repair garages.

M. Boat sales.

N. Restaurants.

O. Sales of new and used motor vehicles.

P. Building contractor facilities, yards and pre-assembly yards. ***(Ord. 667 – Mar. 11 Supp.)***

2. Area Regulations.

A. All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a thirty (30) foot side yard on the side abutting the residential district. All other side yards shall be a minimum of eight (8) feet.

B. Front Yard. There shall be a front yard on each street which a lot abuts, which yard shall be not less than twenty- five (25) feet in depth.

C. Rear Yard. There shall be a rear yard on each lot, which yard shall be not less than twenty (20) feet in depth.

165.37 CI-2 DISTRICT REQUIREMENTS.

1. Permitted Uses: Any use permitted in Industrial I-1 District.

2. Uses Allowed by Special Exception by the Board of Adjustment: Manufacturing, fabricating and processing, which has not previously been listed provided that the proposed use will not constitute a fire hazard or emit objectionable smoke, noise, vibration, odor or dust.

3. Prohibited Non-industrial Uses. In Industrial Districts, no building may hereafter be used in whole or in part for any of the following purposes.

   A. Residential uses or any dwelling use including hotels and motels.

   B. Restaurant, tavern, filling station, theater or other place of commercial recreation or amusement.

   C. School, church, hospital, sanitarium, correctional institution or other institutional use.

   D. Cemetery.

4. Prohibited Industrial Uses.

   A. Acid manufacture, or storage except on limited scale as an accessory to a permitted industry and under conditions specified by the Zoning Board of Adjustment.

   B. Slaughter house and stock yard.

   C. Manufacture of fertilizers.

   D. Garbage, waste materials, offal, dead animal, or refuse incineration or storage.

   E. Manufacture or storage of gun powder, fireworks or other explosive.

165.38 OFF-STREET PARKING REQUIREMENTS. In conjunction with any principal building hereafter erected there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements.

1. Auditoriums, assembly halls, dance halls, theaters, gymnasiums, and skating rinks: one space for each four seats or bench seating capacity.

2. Automatic car wash: five spaces for each washing bay; three spaces for each do-it-yourself car wash bay.

3. Boarding, rooming or lodging house: one space for each sleeping room.

4. Bowling alleys: four spaces per each lane.

5. Church: one space for each five seats in the main seating area.

6. Community center, library, museum or art gallery: ten spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet.

7. Dwellings:

   A. One and two family dwellings: one off-street parking space shall be provided for each dwelling unit.

   B. Multiple dwellings and apartments: two spaces for each dwelling unit.

8. Home occupation: two spaces per dwelling unit plus two spaces for each two hundred (200) feet of floor area devoted to said home occupation.

9. Fraternity or sorority: one space for each bed or one space for each student or advisor maintaining overnight accommodations.

10. Hospital, sanitarium, home for the aged, nursing home or similar institution: one space for each three beds, plus one for each two employees.

11. Hotel: one space for each three sleeping rooms or suites, plus one space for each two hundred (200) square feet in commercial floor area contained therein.

12. Industrial and/or manufacturing: one space for each two employees on the maximum working shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

13. Motel, tourist home or cabin court: one space for each sleeping room or unit.

14. Offices, business and professional agencies, banks, medical or dental clinics: three spaces plus one additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.

15. Private club or lodge: one space for every seven memberships.

16. Restaurant, night club, cafe or similar recreation or amusement establishment: one space for each one hundred (100) square feet of floor area.

17. Retail store or personal service establishment: one space for each two hundred (200) square feet of floor area.

165.39 APPLICATION OF PARKING REQUIREMENTS.

1. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature.

2. Whenever a building erected or established or enlarged after the effective date of the Zoning Ordinance, additional parking spaces, if any, under Section 165.38 shall be provided.

3. Whenever a building existing prior to the effective date of the Zoning Ordinance is enlarged to the extent of fifty percent (50%) or more in floor area, said building or use shall then and thereafter comply with the parking requirements set forth herein.

4. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use, or where such spaces are provided collectively or used jointly, by two or more buildings or establishments, the required spaces may be located not to exceed four hundred (400) feet therefrom.

5. Not more than fifty percent (50%) of the parking spaces required for theaters, bowling alleys, dance halls, night clubs or cafes, and up to one hundred percent (100%) of the parking spaces required for a church or school auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and other similar uses not normally open, used or operated during the same hours as those listed herein.

6. No off-street parking shall be permitted in the grass area in the required maximum front yard of any residential district.

7. Off-street parking spaces provided on other than the same property as the use is located shall be permitted only in such district permitting parking as a use. Such separate parking spaces shall be maintained as long as the principal building or uses are maintained.

165.40 ACCESS DRIVES.

1. All off-street parking facilities shall be designed with appropriate means of vehicular access to a road or alley in a manner which will least interfere with traffic movements.

2. Access to a State Highway shall be subject to the regulations of the Iowa State Highway Commission. The administrative officer shall consider access location and proximity of intersections before granting permits, and shall refer the factors to the Highway Commission for approval if required.

165.41 OFF-STREET LOADING. Off-street loading and unloading space with proper access from a street or alley, and with at least fourteen (14) feet of vertical clearance shall be provided, either within or outside the building to adequately serve the use on the lot. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

165.42 HEIGHT LIMITATIONS. In Residence Districts, no building shall exceed thirty-five (35) feet in height, provided that such height limits may be exceeded by one (1) foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements, up to a maximum of fifty (50) feet. In commercial and industrial districts, no building shall exceed fifty (50) feet in height, provided that such height limits may be exceeded when authorized by the Board of Adjustment. Structures supporting utility facilities are exempted from the provisions of this section.

165.43 SIGNS.

1. Permitted Signs, R District:

A. Nameplates and Identification Signs, subject to the following:

(1) For one- and two-family dwellings, there shall be not more than one nameplate, not exceeding one square

foot in area, for each dwelling unit, indicating the name or address of the occupant or a permitted occupation.

(2) For multiple-family dwellings, for apartments, hotels, and for buildings other than dwellings, a single identification sign not exceeding twelve (12) square feet in area and indicating only the name and address of the building and the name of the management thereof may be displayed.

B. "For Sale" and "To Rent" Signs, subject to the following:

(1) There shall be not more than one such sign per lot except that on a corner lot two (2) signs, one facing each street, shall be permitted. No sign shall exceed eight (8) square feet in area or be closer than eight (8) feet to any other zoning lot.

(2) No sign shall project beyond the property line into the public way.

C. Church Bulletins, subject to the following:

(1) There shall be not more than one sign per lot except that on a corner lot, two (2) signs, one facing each street, shall be permitted, if two signs are being installed neither sign shall exceed eighteen (18) square feet in area. If only one sign is installed on any lot no sign shall exceed twenty-five (25) square feet in area or be closer than eight (8) feet to any other zoning lot.

(2) No sign shall project beyond the property line into the public way. ***(Ord. 589 – Sep. 05 Supp.)***

2. Permitted Signs, B and I Districts:

A. All signs permitted in the residential district.

B. Signs on Marquees, Canopies and Awnings: Restrictions imposed herein on the projection of signs across property lines into the public way shall not apply to signs located on marquees or canopies, provided that any sign located on a marquee or canopy shall be affixed flat to the surface thereof, and, further, that no sign shall extend vertically or horizontally beyond the limits of said marquee or canopy, except that individual freestanding letters may project to a height not exceeding twenty-four (24) inches above same.

C. Signs on Pylons, Standards, Clocks and Supports: Signs, clocks or other advertising devices erected upon standards or separated supports shall be placed so as to be entirely within the property lines of the premises upon which they are located and no part of the sign or standard shall have a total height greater than thirty (30) feet above the adjoining ground level if such ground level is above the street level, nor shall the surface of any such sign exceed an area of one hundred (100) square feet.

D. Signs on Masonry Pylons. Signs may be placed on the face of a masonry pylon when the pylon does not project above the roof line more than twelve (12) feet and the type, design and construction of the pylon complies with all the requirements herein.

E. Billboards and poster panels having a sign area not exceeding four hundred (400) square feet, provided the location of their sites and the limitations of the time of their use, and all other terms and conditions thereof, are first approved by the Council.

F. Sign Requirements in Business Districts. All signs in business districts shall meet the following requirements.

(1) Area: The gross area in square feet of all signs on a zoning lot shall not exceed three (3) times the lineal feet of frontage of such zoning lot. The gross area of all flashing signs shall not exceed two (2) times the lineal frontage of such lot.

(2) Location: The sign or signs shall front the principal street, a parking area, or in the case of a corner building, on that portion of the side street wall within fifty (50) feet of the principal street.

(3) Projection: Signs suspended from any building shall not project more than seventy-two (72) inches beyond the building line but in no case project closer than twenty-four (24) inches to the curb line. The bottom of such sign shall not be less than ten (10) feet above the finished grade of the sidewalk. No sign except those suspended from buildings shall be erected, be placed or encroach upon the street property.

(4) B-1 Business District: Signs must not be illuminated so as to shine on residential properties.

Illumination shall be non-flashing and shall not contain a rotating, oscillating, revolving beam or beacon of light.

(5) B-2 Business District: One free standing sign shall be allowed if its illumination is non-flashing and does not contain a rotating, oscillating, revolving beam or beacon of light and may be installed at the property line.

G. Highway directional signs and markers which shall be made and installed in accordance with the specifications of the City for announcing the location of, or directing traffic to, given locations which include, but are not limited to, the following:

(1) Service areas, automobile, food, lodging.

(2) Business or business districts. Traffic or directional signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of the premises may be maintained provided they are located within the property lines of the subject lot. Fences may be erected along the boundaries of a lot or yard, but no fence shall be constructed closer than eighteen (18) inches to other fences or other structures.

3. Permitted Signs, CB-1, CB-2 and CI-2 Districts. Signs in the CB-1, CB-2 and CI-2 Districts are subject to the provisions of the standards for signage design and display referred to in Chapter 26 (West Branch Preservation Commission) and on file in the City Hall.

4. Permitted Signs, A-1 District. Billboards and poster panels having a sign area not exceeding one thousand six hundred (1,600) square feet, provided the location of their sites and the limitations of the time of their use, and all other terms and conditions thereof are first approved by the Council. ***(Ord. 512 – Sep. 99 Supp.)***

5. Abandoned/Obsolete Sign Removal. It shall be the responsibility of the land/property owner to remove any sign or signs on premises where the associated use of the sign or signs for advertisement of an activity, business, product or service has been discontinued. Signs shall be removed within ninety (90) days of discontinued use.

(Ord. 528 – Sep. 00 Supp.)

165.44 FENCES. Fences and hedges located within a front, side or rear yard or within five (5) feet of a lot line shall be subject to the following location, height, and building permit requirements.

1. Fences, hedges, and walls shall be located so no part thereof is within two (2) feet of any alley, sidewalk, or a street right-of-way line.

2. No portion of a fence, hedge, or wall located in a residential or agriculture district, or adjoining a residential use area shall be erected in excess of six (6) feet on side or rear yards.

3. Maximum heights for fences, hedges, and walls in all other districts not adjoining a residential use area shall not exceed twelve (12) feet.

4. Fences, hedges, and walls shall not exceed four (4) feet in height in any front yards in any zoning district within the City.

5. At street intersections, no fence, hedge, or wall more than three (3) feet in height above the street level shall be located within a triangular area composed of two of its sides twenty-five (25) feet in length and measured along the right-of way lines from the point of intersection of the above-referenced lines. No portions of the fence, hedge, or wall located within the designated twenty-five (25) foot triangular area shall be more than ten percent (10%) solid.

6. Fences, hedges, and walls shall be entirely located within the confines of the property.

7. Front yards shall be determined by where the side yard and front building line meet or intersect.

8. On corner lots, the portion of a fence, hedge, or wall that is located in the designated backyard shall not be erected in excess of four (4) feet. No portion of said fence shall be more than ten percent (10%) solid.

165.45 SERVICE STATIONS. In any district where permitted, a service station shall be subject to the following regulations:

1. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.

2. No fuel delivery pump shall be located within twenty (20) feet from any side lot line or within thirty-five (35) feet of any right-of-way line and no fuel pumps shall be located within fifty (50) feet of the side or rear lot line which lies next to a residence.

3. All major repair work shall be done within a completely enclosed building.

4. All automobile parts, dismantled vehicles and merchandise shall be stored within the confines of the building during the hours when the business is not operating.

165.46 HOTELS AND MOTELS. (Motel Development Standards):

1. Minimum Lot Area. The minimum lot area shall be one (1) acre and the access and egress shall be located not closer than twenty-five (25) feet to the side lot lines. The setback of any structure shall be fifty (50) feet from the front lot line on the street on which the property fronts.

2. Yard Requirements. A minimum of twenty-five (25) feet shall be provided for both side yards and a thirty (30) foot rear yard shall be provided.

3. Lot Area Per Unit. A minimum of one thousand (1,000) square feet shall be required for each bedroom unit.

165.47 DESIGNED SHOPPING CENTER. In case of a designed shopping center, upon examination of the plan by the Planning and Zoning Commission, if such plan meets all other requirements, the side yard requirement for each individual building may be waived. In no case, however, shall any portion of such a combined structure be located nearer than thirty (30) feet to any side lot line of the tract on which a building is erected.

165.48 DESIGNED RESIDENTIAL SUBDIVISION. In the case of a designed residential subdivision or group housing of two or more buildings to be constructed on a plot of ground, not subdivided into the customary streets and lots, and which will not be so subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this chapter to the individual building units in such group housing, the application of the terms of this chapter may be varied by the Board of Adjustment in a manner which will be in harmony with the character of the neighborhood; however, in no case shall the Board of Adjustment authorize a use prohibited in the district in which the housing is to be located, or a smaller area per dwelling unit than the minimum required in such district or a greater height than the requirements of this chapter permit in such a district.

165.49 HCI DISTRICT REQUIREMENTS.

1. Permitted Uses. Tow truck service business and impound lots, provided that there shall be no dismantling of vehicles or permanent storage on the premises. Permanent storage is defined as storage on the lot for more than 60 days. All outdoor storage shall be conducted entirely within an enclosed fence, wall or other solid screen. Such solid

screen shall be constructed on or inside the front, side and rear lot lines and shall be constructed in such a manner that no impounded vehicles or other items shall be visible from an adjacent property, street or highway. Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited. All uses allowed in the Business B-2 District and all uses allowed in the Industrial I-1 District. Adult entertainment establishments, adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters, subject to the following regulations: The following provisions shall govern the location and spatial separation of adult entertainment establishments, adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters in the Highway Commercial Industrial (HCI) district. Said establishments are permitted uses only within a Highway Commercial Industrial district. ***(Ord. 635 – Oct. 07 Supp.)***

A. Definitions. The following definitions shall govern the interpretation of this section:

(1) Adult Entertainment Establishment: An establishment having:

(a) A substantial or significant portion of its business, or

(b) 40% or more of its gross receipts

from the offering of entertainment, stock in trade of materials, scenes or other presentations characterized by emphasis on depiction or description of "specified sexual activities" or "specified anatomical areas" (as defined below).

(2) Adult Bookstore: An establishment having:

(a) A substantial or significant portion of its business, or

(b) 40% or more of its gross receipts

from its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), or an establishment or section devoted to the sale or display of such material.

(3) Adult Motion Picture Theater: An enclosed building with a capacity of fifty (50) or more persons used

for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein.

(4) Adult Mini-Motion Picture Theater: An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein.

(5) Specified Sexual Activities:

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(6) Specified Anatomical Areas:

(a) Less than completely and opaquely covered: i) human genitals, pubic region; ii) buttock; and iii) female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

B. Regulations Governing the Location and Spatial Separation. Adult entertainment establishments, adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters are hereby declared to be regulated uses according to this section and their location and spatial separation shall be governed by rules as follows:

(1) Adult entertainment establishments, adult bookstores, adult motion picture theaters, and adult mini-motion picture theaters may be established within the Highway Commercial Industrial district only, but no part of any such adult entertainment establishments, adult bookstores, adult motion picture theaters, or adult mini-

motion picture theaters shall be within one thousand two hundred feet (1,200') of any residential district.

(2) No adult entertainment establishments, adult bookstores, adult motion picture theaters, or adult mini-motion picture theaters shall be allowed within five hundred feet (500') of any other adult entertainment establishment, adult bookstores, adult motion picture theaters, or adult mini-motion picture theaters or within one thousand five hundred feet (1,500') of the Interstate 80 right-of-way.

(Ord. 588 – Jul. 05 Supp.)

2. This District is exempt from the sign ordinances of this Code of Ordinances. Chapter 306B, Code of Iowa, shall govern the regulation of signs in this District.

3. The regulations pertaining to B-2 District shall apply to the construction of buildings constructed for the purposes contemplated in B-2 Districts, except there shall be no rear or side yard requirements other than easements shown on approved subdivision plats.

4. The regulations pertaining to I-1 Districts shall apply to the construction of buildings constructed for the purposes contemplated in I-1 Districts, except there shall be no rear or side yard requirements other than easements shown on approved subdivision plats.

5. Private roadways shall be allowed in HCI District with a property owners' association being created for the purpose of maintaining and repairing said private roadway.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.01 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
454	August 2, 1993		
463	July 5, 1994		
466	August 15, 1994		
470	February 21, 1995		
471	March 6, 1995		
475	August 1, 1995		
478	May 20, 1996		
499	November 17, 1997		
506	February 16, 1999		
516	October 4, 1999		
529	September 5, 2000		
534	March 5, 2001		
555	August 19. 2002		
557	November 18, 2002		
581	February 22, 2005		
629	March 19, 2007		
646	December 17, 2007		
670	May 3, 2010		
674	February 21, 2011		

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.02 Definitions
170.03 Platting Required and Fees
170.04 Procedure
170.05 Requirements of Preliminary Plat
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170.07 Action by the City Engineer
170.08 Action by the Commission
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170.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

170.02 DEFINITIONS. For use in this chapter, the following terms or words are defined.

1. "Alley" means a public right-of-way, other than a street, 16 feet or less in width, affording secondary means of access to abutting property.

2. "Block" means an area of land within a subdivision that is entirely bounded by streets or highways and/or the exterior boundaries of the subdivision.

3. "Building line" means a line on a plat between which line and public right-of-way no buildings or structures may be erected.

4. "Commission" means the Planning and Zoning Commission of the City.

5. "Cul-de-sac" means a minor street having one end open to traffic and terminated by a vehicular turn-around.

6. "Easement" means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.

7. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose whether immediate or future of transfer of ownership or for building development.

8. "Major street" means a street of considerable continuity connecting various sections of the City and designated as a major street on the official major street plan of the City.

9. "Minor street" means a street which is used primarily for access to the abutting properties.

10. "Performance bond" means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City Engineer, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.

11. "Plat" means a map, drawing or charge on which the subdivider's plan of the subdivision of land is presented in which the subdivider submits for approval and intends, in final form, to record.

12. "Subdivider" means a person undertaking the subdivision or resubdivision of a tract or parcel of land.

13. "Subdivision" means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or, the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

170.03 PLATTING REQUIRED AND FEES. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or, pursuant to Section 354.9 of the Code of Iowa, to any land located within two miles of the corporate limits, shall cause plats of such area to be made in the form, and containing the information, as hereafter set forth before selling any lots therein contained or placing the plat on record. The City may, by resolution, waive its right to review any subdivision outside its City limits or waive the requirements of any of its standards or conditions of approval, and if such resolution is made, shall certify the resolution, which shall be recorded with the plat.

1. Fees. At the time said preliminary or final plat is filed with the Clerk, a fee of three hundred dollars ($300.00), unless waived by resolution of the Council, shall be paid to the Clerk.

2. Additional Costs. The subdivider shall also be responsible for payment of the actual costs of the City Engineer's review for preliminary and final plats or additional engineering reviews necessitated by the submission of an incomplete plat or plat that fails to meet the minimum requirements for plats set by ordinance or written City policy adopted by the Council. The costs and fees shall be paid by the subdivider within thirty (30) days of receipt of the costs by the subdivider. Failure to pay these costs and fees when assessed to the subdivider may be cause for denial of the plat or subdivision or any further plats or subdivisions submitted by the applicant.

170.04 PROCEDURE. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

170.05 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall first prepare and file with the Clerk sixteen (16) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.

2. An outline of the area to be subdivided, identifying approximate dimensions of the boundary lines.

3. An accurate legal description of the land included in the subdivision and giving reference to two section corners within the U.S. public land system in which the plat lies, or if the plat is a subdivision of any portion of an official plat, two established monuments within the official plat.

4. Each lot within the plat shall be assigned a progressive number.

5. Present and proposed streets, alleys, and sidewalks, with their right-of-way, in or adjoining subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips.

6. Proposed layout of lots, showing numbers, approximate dimensions, and the square foot areas of lots that are not rectangular.

7. Building setbacks or front yard lines.

8. Parcels of land proposed to be dedicated or reserved for schools, parks, playground, or other public, semi-public or community purposes.

9. Present and proposed easements, showing locations, widths, purposes and limitations.

10. Present and proposed utility systems, including the location and size of existing sanitary and storm sewers, culverts, water mains, street lights and other public utilities; and the location and alignment of proposed utilities to serve the development.

11. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.

12. Names and addresses of the owner, subdivider, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.

13. Existing and proposed zoning of the proposed subdivision and adjoining property.

14. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

15. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater, unless the Commission waives this requirement.

16. The location of any floodway and flood hazard boundaries, and the identification of those areas subject to flooding and high water.

17. Identification of all adjoining properties, and where such adjoining properties are part of recorded subdivisions the names of those subdivisions.

18. Identification of areas prone to erosion and, by separate document attached to the preliminary plat, a grading plan to explain the methods that will be used to control erosion pursuant to the requirements of this chapter. (*See Section 170.15(15).*

170.06 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and seven (7) copies to the Commission.

170.07 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices, and shall, within two (2) weeks, submit findings in duplicate to the Commission together with one (1) copy of the plat received.

170.08 ACTION BY THE COMMISSION. The Commission shall, upon receiving the report of the City Engineer, as soon as possible, but not more than

thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the Commission or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the Commission shall express its approval as "Conditional Approval" and state the conditions of such approval, if any, and then submit to the Council within 10 days for the Council's consideration.

3. The action of the Commission shall be noted on seven (7) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copies retained by the Commission.

4. The Council shall notify the subdivider that the preliminary plat will be considered at the next regular Council meeting. The Council shall review the plat and findings of the Commission and either modify, conditionally approve said plat or return the plat to the Commission for further modification as noted.

5. The "Conditional Approval" by the Commission and the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

170.09 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

170.10 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the Commission, prepare and file sixteen (16) copies of the final plat and other required documents with the Clerk as hereinafter sets forth, and upon his failure to do so within the time specified, the "Conditional Approval" of the

preliminary plat shall be null and void unless an extension of time is applied for and granted by the Commission. Upon receipt of the final plat and other required documents, the Clerk shall transmit seven (7) copies of the final plat to the Commission for its recommendations and approval.

170.11 REQUIREMENTS OF THE FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than one hundred feet to one inch on a reproducible drawing, or as prescribed by Iowa Code Chapter 354. It shall show:

1. The title under which the subdivision is to be recorded.

2. The linear dimensions (as required by the Iowa Code) of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.

3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan.

4. Description and location of all permanent monuments set in the subdivision to be placed at all block corners, at all angles and points of curve of the street and alley property lines, and at all corners and angles on the exterior boundary. The plat shall show that the subdivision is tied to a physically monumented land line, which is identified by two United States public land survey systems corners, or by two physically monumented corners of a recorded subdivision. ***(Ord. 523 – Mar. 00 Supp.)***

5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.

6. A sealed certification of the accuracy of the plat by a land surveyor who prepared the final plat.

7. Signatures of utilities approving easements and locations of utilities.

8. The legal description of the area being platted.

9. Identification of all adjoining properties, and where such adjoining properties are part of recorded subdivisions, the names of those subdivisions.

10. Any other pertinent information, which may include a site development plat, necessary for the proper evaluation of the plat.

11. The locations, dimensions and uses of all proposed easements.

170.12 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.

2. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

4. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

5. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

6. A certificate of dedication of streets and other public property.

7. A statement of restriction of all types that run with the land and become covenants in the deeds of lots.

8. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

9. Design plans for all public improvements prepared under the direction of a registered professional engineer licensed in the State, including plan and profiles, typical cross sections and specifications of street improvements and utility systems, to show the location, size and

grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or north at the left.

10. A certificate by the City Engineer or similar official within two (2) weeks of submission that all required improvements and installations have been completed, or that a letter of credit or performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision, or by agreement between the City and subdivider as to installation and assessment of such improvements.

11. The encumbrance bond, if any.

12. Final plans, following completion of construction, identifying the as-built location and elevation of all public improvements installed.

13. A statement by a registered land surveyor that the plat was prepared under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal.

170.13 ACTION BY THE COMMISSION. The Commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat and, if the same is approved, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Commission.

170.14 ACTION BY THE COUNCIL. Upon receipt of the certification by the Commission, the Council shall, within thirty (30) days, either approve or disapprove the final plat.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.

3. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owners shall cause such plat to be recorded in the office of the County Recorder and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

170.15 GENERAL REQUIREMENTS. The following general requirements shall be followed by all subdividers:

1. Relation to Existing Streets.

   A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

   B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Commission to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage Subdivisions.

   A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

   B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

   C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

3. Minor Streets.

   A. Minor streets shall be so planned as to discourage through traffic.

   B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than nine hundred (900) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of sixty (60) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

4. Frontage Streets.

A. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

5. Street Geometrics.

A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

B. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

C. When connecting street lines deflect from each other at any one point by more than tan (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the Commission shall determine for special cases.

D. Street right-of-way widths shall be as follows:

(1) Arterial Streets: a 70-foot right-of-way, 42-foot pavement, and 4-foot sidewalks per City specifications.

(2) Collector Streets: a 66-foot right-of-way, 34-foot pavements, and 4-foot sidewalks per City specifications.

(3) Minor Streets: a 60-foot right-of-way, 29-foot pavements, and 4-foot sidewalks per City specifications.

6. Intersections.

A. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than eighty (80) degrees.

C. Property lines at street intersections shall be rounded with a radius of fifteen (15) feet, or of a greater radius where the Commission may deem it necessary. The Commission may permit comparable cutoffs or chords in place of rounded corners.

7. Street Names. Streets that are in alignment with others already existing and names shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Commission.

8. Street Grades.

A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.

B. No street grade shall be less than one-half of one percent (0.5%).

9. Alleys.

A. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement where other definite and assured provisions are made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

B. The width of an alley shall be sixteen (16) feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Commission.

10. Blocks.

A. No block may be more than one thousand three hundred twenty (1,320) feet or less than two hundred eighty (280) feet in length between the centerlines of intersecting streets, except

where, in the opinion of the Commission, extraordinary conditions unquestionably justify a departure from these limits.

B. In blocks over seven hundred (700) feet in length, the Commission may require at or near the middle of the block a public highway or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

11. Lots.

A. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Minimum lot dimensions and sizes shall conform to the requirements of the Zoning Ordinance. Provided:

(1) Residential lots where not served by public sewer shall not be less than one (1) acre in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

C. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

D. Reverse frontage lots or through lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the lines of lots abutting such a traffic artery or other disadvantageous use.

E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

12. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Commission may require building lines in accordance with the needs of each subdivision.

13. Easements.

A. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least sixteen (16) feet wide.

B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purposes.

14. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City Engineer. The markers shall be of such material, size and length as may be approved by the City Engineer, but in no event less than the Code of Iowa requires.

15. Erosion Control. It is the responsibility of the developer to control erosion from the development onto public streets and facilities in platted, but not fully developed, subdivisions. Developers shall erect mechanical erosion control devices (e.g., silt fences, haybale fences, etc.) in areas susceptible to erosion in new developments. These devices shall remain in place and in good repair until the subdivision is fully developed or permanent ground cover is established. The City Engineer shall review and approved the grading plan before the preliminary plat will be recommended to the Council for approval and shall verify the installation and maintenance of all required erosion control devices before the remaining public improvements will be recommended to the Council for acceptance. To assure compliance with the erosion control requirements, the developer shall either post a bond guaranteeing compliance or deposit funds with the City, the type and amount of said assurance to be recommended by the City Engineer and approved by the Council. In the event that the developer fails to comply with the terms of this section, the City shall have the right to apply the bond or funds to take the necessary steps to control erosion or prevent erosion from occurring. After sale of any lot, the actual owner of that lot shall be responsible for the prevention and control of soil erosion for that lot.

170.16 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete as the Commission and the Council may require, constructed in accordance with City of West Branch standards.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

4. Sidewalks. Sidewalks shall be installed by the subdivider. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.

5. Water Lines. Where a public water main is reasonable accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with Iowa Department of Natural Resources and the City Water Department standards, procedure and supervision; and loop said water line where reasonably possible.

6. Sewers.

A. Where a public sanitary sewer is within two hundred (200) feet and reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system and required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the Iowa

Department of Natural Resources and the construction subject to the supervision of the City Engineer.

B. Where sanitary sewers are not available, other facilities, as approved by the Council and the Iowa Department of Natural Resources, must be provided for the adequate disposal of sanitary wastes.

C. Adequate provisions shall be made for the disposal of storm waters, pursuant to the then existing Storm Water Management Policy of the City subject to the approval of the Council and to the supervision of the City Engineer.

D. A subdivision developer shall provide each platted building lot a direct connection for the discharge from any foundation tile, sump pump, or roof downspout to the storm water system. All storm water systems shall be designed in accordance with the adopted Storm Water Management Policy of the City. All connection materials and connection methods for each lot shall be engineered and presented as part of the construction drawings before final approval by the City Engineer.

(Ord. 663 – Mar. 11 Supp.)

7. Maintenance Bonds. Maintenance bonds shall be posted with the City by the subdivider at the subdivider's cost for improvements required under this chapter for the following time periods and improvements:

Streets and alleys	4 years
Storm sewer, drainage and detention	4 years
Concrete pavement	4 years
Asphalt overlays	4 years
Sidewalks	4 years
Curb and gutter	4 years
Water facilities	4 years
Sanitary sewer facilities	4 years
All other underground utilities	4 years

(Ord. 692 – Feb. 13 Supp.)

170.17 SPECIFICATIONS. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Clerk for Council approval prior to construction and construction shall not be started until the plans and specifications have been approved.

170.18 INSPECTION. The Council shall cause the installation of all improvements to be inspected by the City Engineer to insure compliance with the requirements of this chapter. The cost of said inspections shall be borne by the subdivider and shall be the actual cost of said inspections to the City.

170.19 COMPLETION OF IMPROVEMENTS. Before the Council will approve the final plat, and before any building permits will be issued, As Builts of all of the foregoing improvements, except sidewalks, shall be constructed and presented to the City. The Council will then by formal resolution approve the final plat. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements and the agreements between subdivider and the City. Sidewalks shall be installed upon completion of the building for which the building permit was obtained, unless an extension is granted by the City Engineer due to weather conditions or within three (3) years after the approval of any subdivision, whichever event first occurs.

170.20 WAIVER OF COMPLETION REQUIREMENTS. The completion requirements may be waived in whole or in part if the subdivider will post a performance bond, a letter of credit, or other Council-approved reliable guarantee with the Council guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat; but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

170.21 LARGE SCALE DEVELOPMENT. The standards and requirements of these regulations may be modified by the Council in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which in the judgment of the Commission provides adequate public spaces and improvements for the circulation, recreation, light, area, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

170.22 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, and must conform to Zoning Ordinance and State Code regarding granting of variances by the Board of Adjustment.

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CHAPTER 173

SITE PLAN REQUIREMENTS

173.01 Title
173.02 Purpose and Application
173.03 Design Standards
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173.10 Site Plan Amendment
173.11 Applicability to Existing Development
173.12 Enforcement
173.13 Changes and Amendments
173.14 Maintenance Bonds

173.01 TITLE. This chapter shall be known, cited and referred to as "Site Plan Regulations of the City of West Branch, Iowa."

173.02 PURPOSE AND APPLICATION. It is the intent and purpose of this chapter to establish a procedure which will enable the City to review certain proposed improvements to property within specified zoning districts of the City to insure compliance with all applicable zoning, subdivision and building regulations. Site plans shall only be required whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel of and within any district of the West Branch Zoning Ordinance, and for any use, except one and two family dwellings.

173.03 DESIGN STANDARDS. The standards of design provided herein are necessary to insure the orderly and harmonious development of property in such manner as will safeguard the public's health, safety and general welfare.

1. The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property.

2. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter yards, refuse containers, and impairment of light and air. For the purpose of this section, the term "use and enjoyment of adjoining property" shall mean the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term "use and enjoyment of adjoining

property" shall mean those uses permitted under the zoning districts in which such adjoining property is located.

3. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets.

4. To such end as may be necessary and proper to accomplish the standards in subsections 1, 2, and 3 above, the proposed development shall provide fences, walls, screening, landscaping, erosion control or other improvements.

5. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, Iowa Statewide Urban Design and Specifications (SUDAS), Iowa Stormwater Management Manual and all applicable provisions of the Code of Ordinances of the City of West Branch, as amended.

173.04 REQUIRED INFORMATION. All site plans required under Section 173.02, unless waived by the City Council, shall be prepared by a licensed Engineer or Land Surveyor, and shall include as a minimum the following information:

1. Date of preparation, north point and scale.

2. Legal description and address of the property to be developed.

3. Name and address of the record property owner, the applicant, and the person or firm preparing the site plan.

4. The existing and proposed zoning.

5. The existing topography with a maximum of two (2) foot contour intervals. Where existing ground is on a slope of less than two percent (2%), either one (1) foot contours or spot elevations where necessary but not more than fifty (50) feet apart in both directions, shall be indicated on site plan.

6. Existing and proposed utility lines and easements in accordance with Iowa Statewide Urban Design and Specifications (SUDAS) and City of West Branch Subdivision Regulations.

7. Total number and type of dwelling units proposed; proposed uses for all buildings; total floor area of each building; estimated number of employees for each proposed use where applicable; and any other information, including peak demand, which may be necessary to determine the number of off-street parking spaces and loading spaces required by the Zoning Ordinance.

8. Location, shape, and all exterior elevation views of all proposed buildings, for the purpose of understanding the structures and building materials to be used, the location of windows, doors, overhangs, projection height, etc. and the grade relationship to floor elevation, and the number of stories of each existing building to be retained and of each proposed building.

9. Property lines and all required yard setbacks.

10. Location, grade and dimensions of all existing and proposed paved surfaces and all abutting streets.

11. Complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements.

12. Location and type of existing or proposed signs and of any existing or proposed lighting on the property which illuminates any part of any required yard.

13. Location of existing trees six (6) inches or larger in diameter, landslide areas, springs and streams and other bodies of water, and any area subject to flooding by a one hundred (100) year storm on site and downstream off site.

14. Location, amount and type of any proposed landscaping. Location of proposed plantings, fences, walls, or other screening as required by the zoning regulations and the design standards set forth in Section 173.03.

15. A vicinity map at a scale of 1" = 500' or larger, showing the general location of the property, and the adjoining land uses and zoning.

16. Soil tests and similar information, if deemed necessary by the City Engineer, to determine the feasibility of the proposed development in relation to the design standards set forth in Section 173.03.

17. Where possible ownership or boundary problems exist, as determined by the Zoning Administrator, a property survey by a licensed land surveyor may be required.

18. Stormwater Pollution Prevention Plan.

19. Stormwater Management Plan.

173.05 PROCEDURE.

1. Pre-Application Conference. Whenever any person proposes to place any structure for which a building permit is required under any

other section of this Code, on any tract or parcel of land within any district of the West Branch Zoning Ordinance, and any use, except one and two family dwellings, the person shall submit to the City Administrator a request for a Pre-Application Conference. The Conference shall include the applicant or his/her representative, the City Engineer and the Zoning Administrator. The purpose of the Conference shall be to acquaint the City staff with the proposed construction and to acquaint the applicant or his/her representative with the procedures and with any special problems that might relate to such construction. The applicant shall furnish a legal description of the subject real estate at the time of requesting a Pre-Application Conference, and the Conference shall be held within fourteen (14) days of such request.

2. Continuous Site Plan Review. After completion of the Pre-Application Conference as required by subsection 1 of this section, and in the event the applicant wishes to proceed with the construction as discussed at said Conference, he/she shall cause to be prepared a site plan of such proposed construction, and shall submit five (5) copies of the same to the Zoning Administrator and one (1) copy to the City Engineer. The site plan shall be accompanied by a cover letter requesting review and approval of said plan. The site plan shall contain all the information required by Sections 173.04 and 173.06 of this chapter unless otherwise waived by the Zoning Administrator. The Zoning Administrator shall retain one (1) copy for his/her review and comment. The remaining copies shall be retained by the City Clerk for review and distribution. The Zoning Administrator and City Engineer shall review the plan for conformance of the design to the standards and required data set forth in Sections 173.04 and 173.06 of this chapter.

3. Action.

A. The Zoning Administrator shall promptly notify the applicant in writing of any revisions or additional information needed as required by Sections 173.04 and 173.06. If necessary, the applicant shall make revisions and resubmit the revised plan(s) to the Zoning Administrator for compliance. If the site plan complies with requirements set forth in this chapter, the applicant shall submit ten (10) copies of the plan to the Planning and Zoning Commission for approval, disapproval or approval subject to conditions.

B. The Commission shall in its regularly scheduled meeting, act upon the site plan and accompanying material. The City Engineer, City staff and other departments shall submit to the

Commission their recommendation. Applicant or a representative shall be present at the meeting. Action of the Commission shall be approval subject to conditions, or denial.

C. Approval by Commission. In the case of approval by the Commission, the approval shall be documented on seven (7) copies of the site plan. One (1) copy shall be returned to the applicant, one (1) copy retained by the Commission and five (5) copies shall be forwarded to the City Council.

D. Conditional Approval by Commission. In the case of approval subject to conditions by the Commission, the approval shall be documented on seven (7) copies of the site plan and the conditions determined attached thereto. One (1) copy shall be returned to the builder, one (1) copy shall be retained by the Commission, and five (5) copies shall be forwarded to the City Council. The applicant shall provide revised copies of the site plan in accordance with the Commission action and submit ten (10) copies to the City Clerk prior to Council action. The City Clerk shall forward one (1) copy to the City Engineer, five (5) copies to the City Council and one (1) copy for the Commission files.

E. Disapproval by Commission. In the case of disapproval by the Commission, the disapproval shall be documented on three (3) copies of the site plan. One (1) copy shall be returned to the applicant, one (1) copy shall be retained by the Commission, and one copy shall be retained by the City Clerk.

F. Council Action. At the next regularly scheduled Council meeting following Commission action, the Council shall act on the site plan and accompanying material. Applicant or a representative shall be present at the meeting. Action of the Council shall be approval or denial.

G. Approval by Council. In the case of approval by the Council, the approval shall be documented on three (3) copies of the site plan. One (1) copy shall be returned to the applicant, one (1) copy shall be forwarded to the Commission, and one (1) copy shall be retained by the City Clerk. Applicant may then proceed with approval of building permit and accompanying material.

H. Denial by Council. In the case of denial by the Council, the denial shall be documented on three (3) copies of the site plan.

One (1) copy shall be returned to the applicant, one (1) to the Commission, and one (1) copy shall be retained by the City Clerk.

I. Resubmittal of Site Plan Denied by Council. A site plan that has been approved by the Commission and denied by the Council may be revised by the applicant in accordance with the Council action and ten (10) copies resubmitted to the Commission for approval as before.

J. Resubmittal of Site Plan Denied by Council and Commission. A site plan that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes ten (10) copies of the site plan and filing fees. Resubmittal under these terms shall be considered a new site plan subject to fees and procedures outlined in Section 173.05.

173.06 OPEN SPACE, LANDSCAPING, PARKING AND ARCHITECTURAL REQUIREMENTS. The requirements set forth in this section for open spaces, landscaping, parking and architectural standards shall apply to any development or redevelopment except one and two family dwellings.

1. Open Space Required. On each lot, except for one and two family dwellings, there shall be provided 25 percent of open space.

A. Said open space shall be unencumbered with any structure, or off-street parking or roadways and drives, and shall be landscaped and maintained with grass, trees and shrubbery. When the entire lot is not developed, the open space requirement shall be based in proportion to the area of the improved portion of the lot.

B. Each principal structure of an apartment or office complex on same site shall be separated from any other principal structure in the complex by an open space of not less than sixteen (16) feet.

2. Landscaping Required. Any development, except one and two family dwellings, shall provide the following minimum number and size of landscape plantings based on the minimum required open space for the development. The following is the minimum requirement of trees and shrubs, by number and size, and type of ground cover. Street trees planted in public street right-of-way subject to approval by the City shall not be counted toward fulfillment of the minimum site requirements set forth below. Plant species to be used for landscaping shall be acceptable to the City that are not considered a nuisance or undesirable species, such

as trees with thorns, cottonwood or cottonbearing poplars, elm trees prone to Dutch Elm Disease, box elder, ash, and silver maple. Existing trees and shrubs to be retained on site may be counted toward fulfillment of the landscaping requirements.

A. Minimum requirements at the time of planting - Two (2) trees minimum or one (1) tree of the following size per 1,500 square feet of open space, whichever is greater: 40 Percent 1½" - 2" caliper diameter. Balance 1" - 1½" caliper diameter. (Evergreen trees shall not be less than three (3) feet in height.)

B. Minimum requirements at the time of planting - 6 shrubs, or 1 shrub per 1,000 square feet of open space, whichever is greater.

C. To reduce erosion all disturbed open space areas shall have ground cover of grass or native vegetation which is installed as sod, or seeded, fertilized and mulched.

3. Buffer Required. The following conditions shall require a buffer which shall be a landscaped area, wall, or other structure intended to separate and obstruct the view between two adjacent zoning districts, land uses or properties:

A. Any other zoning district, other than an Agricultural A-1 District, that abuts any residential district shall require a buffer as described in this section. The buffer shall be provided by the non-residential use when adjoining a residential district.

B. All Industrial Districts that abut any other district shall provide a buffer as required by this section.

C. Any storage area, garbage storage, junk storage or loading docks, and loading areas, in any District shall be screened from public street view by a buffer.

4. Buffers. Buffers required under the provisions of this section or elsewhere in the Zoning Ordinance shall be accomplished by any one or approved combination of the following methods:

A. Buffer Wall: A buffer wall shall not be less than six (6) feet in height; constructed of a permanent low maintenance material such as concrete block, cinder block, brick, concrete, precast concrete or tile block; the permanent low-maintenance wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; weather resistant wood may be used as a substitute material if designed with adequate

structural integrity and permanency and approved by the Planning and Zoning Commission and City Council.

B. Landscape Buffer: A landscape buffer shall not be less than twenty-five (25) feet in width, designed and landscaped with earth berm and predominant plantings of evergreen type trees, shrubs and plants so as to assure year around effectiveness; height of berm and density and height of plantings shall be adequate to serve as a solid and impenetrable screen. A chain link fence may exist for security purposes, but is not considered a part of the landscape screening to satisfy the intent of this requirement.

5. Burden of Provision of Buffer. The burden of provision and selection of the buffer shall be as follows:

A. Where two different zoning districts, requiring a buffer between them, are developed, the above requirement is not retroactive and a buffer is not required. If a buffer is desired, it shall be provided by mutual agreement between adjacent property owners. However, in the event of any or all of the improved property is abandoned, destroyed, or demolished, for the purpose of renewal or redevelopment, that portion of such property being renewed or redeveloped, shall be considered vacant and subject to the requirements herein.

B. Where one of two different zoning districts requiring a buffer between them is partly developed, the developer of the vacant land shall assume the burden, unless otherwise specified herein.

C. Where both zoning districts, requiring a buffer between them, are vacant or undeveloped, the burden shall be assumed by the developer of the land that is improved or developed, except for agricultural uses and unless otherwise specified herein.

6. Waiver of Buffer Requirements. Where the line between two districts, requiring a buffer, follows a street, right-of-way, railroad, stream, or other similar barrier, the requirement for a buffer may be waived by the City Council provided such waiver does not permit the exposure of undesirable characteristics of land use to public view.

7. Surfacing Requirements. All off-street parking and loading areas and access roadways shall have a durable and dustless surface paved with asphaltic or Portland cement concrete pavement or pervious pavement in accordance with the requirements as herein set forth. Off-street parking of automobiles, vans, campers, trucks, trailers, tractors,

recreational vehicles, boats, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or Portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way, except, however, the storage of a recreational vehicle, a camper, and boat within the side or rear yard upon an unpaved area shall be permitted. All off-street parking areas and associated driveways, access roadways and frontage roads, except driveways for single family residences, shall be constructed with permanent, integrally attached 6" high curbing or curbing of alternate height acceptable to the City (prefabricated portable curb stops shall not be considered an acceptable alternate), and shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. The curbing requirements may be waived if it is determined that surface drainage can be adequately handled by other means. All approaches from the back of the street curb to the sidewalk shall be constructed of at least six (6) inches of Portland Concrete. The minimum thickness of pavement of the parking area shall be as follows:

A. Portland Cement Concrete shall have a minimum thickness of five (5) inches.

B. Asphaltic Cement Concrete shall have a minimum thickness of six (6) inches.

C. Pervious pavement will be subject to review and approval by the City.

D. Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways and access roadways shall be specifically designed to accommodate the type and load bearing capacity of traffic anticipated. Driveways for attached townhouse style residences on private property shall be Portland cement concrete or asphaltic concrete with minimum thickness of five (5) inches and six (6) inches, respectively, with a sufficiently compacted and well-drained subgrade base and not greater than eighteen (18) feet in width.

8. Landscaping, Screening and Open Space Requirements. It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics that are inherent to their use. Therefore,

wherever practical and except for single and two family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view and contain shade trees within parking islands where multiple aisles of parking exist. Not less than five (5) percent of the interior parking area shall be landscaped within parking islands.

9. Off-Street Parking Access to Public Streets and Internal Traffic Circulation. Off-street parking or loading facilities shall be designed so as to permit entrance and exit by forward movement of the vehicle for all uses, except single-family detached or row dwellings which shall permit backward movement from a driveway. The backing or backward movement of vehicles from a driveway, off-street parking or loading area onto an arterial street or highway shall be prohibited for all uses. Driveway approach returns shall not extend beyond the side lot line as extended, unless such driveway is of joint usage by the adjoining lots, and driveway approaches at roadway not greater than established in the Iowa Statewide Urban Design and Specifications. The number of ingress/egress access points to public streets from offstreet parking areas approved by the City and located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety, and, as possible, not impair movement of vehicular traffic on public streets. The permitted number of ingress/egress driveway approaches to public streets for an offstreet parking lot shall be dependent upon the projected future average daily traffic (ADT) for the public street and, as possible, public street accesses shall be located in alignment with driveway approaches gaining access to the same public street from property on approaches gaining access to the same public street from property on the opposite side of the street. The design of off-street parking and loading facilities shall provide traffic circulation for the internal forward movement of traffic within the parking lot, so designed, as not to impair vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

10. Handicap Accessible Parking Requirements. Provision of handicapped parking spaces within off-street parking areas shall be in accordance with applicable Federal, State and local regulations, properly identified with signage and provided with accessible ramps and walks in accordance with Federal and State regulations, and comply with the following parking space minimum requirements:

TOTAL PARKING SPACE IN LOT	REQUIRED MINIMUM NUMBER OF HANDICAPPED SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	†
1001 and over	‡

† Two percent (2%) of total

‡ Twenty (20) spaces plus one for each 100 over 1000

Access space or aisle adjacent to handicap accessible parking space shall be a minimum five (5) feet wide. One in every eight handicap accessible spaces, but not less than one shall be served by an access space or aisle eight (8) feet wide minimum and shall be designated "van accessible."

11. Traffic Analysis Requirements. Any project which contains 100 dwelling units or 1,000 average day trips as listed for uses in the Trip Generation Handbook; Institute of Transportation Engineers, current edition, shall submit a traffic analysis which provides necessary information to determine the affect that the project will have upon the surrounding traffic. At a minimum the traffic analysis shall contain project trip generation directional distribution of project trips, traffic assignment, and capacity analysis, including identification of congestion and turning-movement conflicts.

12. Waiver of Requirements. The City Council reserves the right to waive or modify to a lesser requirement any provision or requirement of off-street parking and loading areas contained in this chapter, provided a report on such change is received from the Planning and Zoning Commission and City Administrator, provided adequate area exists for future expansion, and further provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property. Exceptions will only be considered for those uses where special circumstances warrant a change and whereby the modification or waiver is determined to be in the best interest of the general public.

13. Architectural Standards. As part of the submittal of a site plan for development within any of the zoning districts and for any of the uses except one and two family dwellings, architectural plans for buildings shall be submitted for review and approval by the City Council after recommendation from the Planning and Zoning Commission.

Documentation to be submitted shall include building elevations showing the building's design and a description of structural and exterior materials to be used. The following standards shall be considered by the City to review architectural plans:

A. Multiple-Family Dwellings in All Districts. The architecture of multiple-family buildings shall be designed in a manner compatible with adjoining residential uses in the neighborhood. Architectural design for multiple-family buildings shall include exterior building materials, exterior details and texture, treatment of windows and doors, and a variety in the wall and roof design to lessen the plainness of appearance that can be characteristic of large residential buildings. Multiple-family buildings with single plane walls and boxy in appearance shall not be considered acceptable unless the use of exterior materials such as brick provides the elements necessary to enhance the building's physical appearance and eliminate its plainness of appearance. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Buildings shall be designed or oriented not to expose loading docks, or loading areas to the public.

B. Non-Residential Uses in the "R" Districts. Any building used for a permitted non-residential use in "R" Districts shall be designed and constructed with architecture and use of materials compatible with the residential uses within the neighborhood. Buildings located on a residential street in an "R" District shall be residential in character, and exterior materials shall be wood, brick, and/or brick veneer. The architectural design shall be approved by the City.

C. All Uses Within the Commercial Districts. Architectural design and use of materials for the construction of any building shall be approved by the City. Buildings within the Commercial Districts shall have as a primary element of the building exterior fascia glass, brick, concrete panels, textured concrete block, architectural steel or stone panels, or cement fiber composite siding, with all sides of any building built consistent in design and use of materials. No wood, masonite, visible asphaltic exterior wall or roof material, aluminum or steel siding, nonarchitectural sheet metal non-textured concrete block, stucco, E.I.F.S. (Exterior Insulation and Finish System) or other similar materials shall constitute a portion of any building except as a trim material,

unless the City Council after receiving a recommendation from the Planning and Zoning Commission, shall determine said material when used as a primary element, does not distract from the physical appearance of the building. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Building shall not be designed or oriented to expose loading docks, nonresidential use overhead doors or loading areas to the public.

D. All Uses Within Industrial Districts. Architectural design and use of materials for construction of any building in the Industrial Districts shall be reviewed as part of the site plan proposal and shall be approved by the City. While it is not the purpose of this section to dictate, specify, or restrict the use of building materials and structural elements, the use of appropriate exterior materials to enhance the appearance of a building is encouraged by the City. The exclusive use of sheet metal as an exterior building material shall not be considered acceptable for buildings facing public streets. The exterior material of the building's front elevation shall be comprised of brick, concrete panels, textured concrete block, architectural steel or stone panels, or cement fiber composite siding, or other similar material. Loading areas, loading docks, storage areas, and garbage dumpsters shall be located, screened or oriented to minimize their exposure to view from public streets.

173.07 ZONING PERMITS. No zoning compliance permit or building permit shall be issued for the construction of any structure that is subject to the provisions of this chapter, until a site plan has been submitted for review covering the land upon which said structure is to be erected, and further, approved by City Council for such development in accordance with this chapter.

173.08 FEES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for site plan approval and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the City Clerk, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

1. Applicant shall be responsible for just and reasonable costs incurred by the City for review of preliminary and final site plans

deemed necessary by the City to insure proper conformance with City ordinances and site plan regulations.

173.09 VALIDITY OF APPROVAL.

1. A site plan shall become effective upon certification of approval by the City Council.

2. The City Council approval of any site plan required by this chapter shall remain valid for one (1) year allowing one (1) year extension with approval of City Council upon recommendation of the Commission after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction.

173.10 SITE PLAN AMENDMENT. Any site plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that the Zoning Administrator may waive such procedures for those minor changes hereinafter listed. Such minor changes shall not be made unless the prior written approval for such changes is obtained from the Zoning Administrator. No fees shall be required for such minor changes.

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, shortening of building canopies.

2. Changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirement of the West Branch Zoning Ordinance. This does not apply to residential uses.

3. Changing angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved.

4. Substituting plant species provided a landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.

5. Changing type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at property boundary.

6. Increasing peripheral yards.

173.11 APPLICABILITY TO EXISTING DEVELOPMENT. The requirements of this chapter shall not apply to the placement of any structure for which building permits have been issued as of the date of the adoption of this ordinance codified by this chapter (March 5, 2012), provided that if such building permit shall expire, then a new building permit shall not be issued until the requirements of this chapter have been met. Provided further, that if an existing structure is to be reconstructed, enlarged, expanded, or otherwise increased:

1. In the case of building uses, in an amount 50% or greater of its existing ground coverage and/or total floor space; or

2. In the case of non-building uses or non-building portion of uses, in the amount 50% or greater of the existing developed non-building site area, then the provisions of this chapter shall apply.

173.12 ENFORCEMENT. No zoning ordinance certification, occupancy permit or building permit shall be issued by the City or have any validity until the site plan has been approved in the manner prescribed herein.

173.13 CHANGES AND AMENDMENTS. Any provision of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least fifteen (15) days prior to the hearing.

173.14 MAINTENANCE BONDS. Maintenance bonds shall be posted with the City by the developer at the developer's cost for improvements required under this chapter for the following time periods and improvements:

Streets and alleys	4 years
Storm sewer, drainage and detention	4 years
Concrete pavement	4 years
Asphalt overlays	4 years
Sidewalks	4 years
Curb and gutter	4 years
Water facilities	4 years
Sanitary sewer facilities	4 years
All other underground utilities	4 years

(Ord. 693 – Feb. 13 Supp.)

(Chapter 173 – Ord. 689 – Feb. 13 Supp.)

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CITY OF WEST BRANCH, IOWA

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APPENDIX TO
CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The "OFFICIAL COPY" of the Code of Ordinances must be kept by the City Clerk and should be identified as the "OFFICIAL COPY."

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library and perhaps the schools and news media.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances was No. 163, we would suggest that the first ordinance passed changing, adding to or deleting from the Code be assigned the number 164; the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances, and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the APPENDIX of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 19__, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of _____, Iowa, 19__ is amended by adding a new Section in Chapter 69, numbered 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, 19__, and approved this ___ day of _____, 19__.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 19__.

_____
City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 19__, BY REPEALING CHAPTER 65, SECTION 02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of _____, Iowa, 19__, is hereby amended by repealing Chapter 65, Section 02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, 19__, and approved this ___ day of _____, 19__.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No.___ on the ___ day of _____, 19__.

_____
City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted or changed as follows:

ORDINANCE NO. ___

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF _____, IOWA, 19__, BY AMENDING PROVISIONS PERTAINING TO SEWER RENTAL RATES

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SECTION MODIFIED. Chapter 99, Section 02, of the Code of Ordinances of the City of _____, Iowa, 19__, is repealed and the following adopted in lieu thereof:

> **99.02 RENTAL RATE.** Each customer shall pay a sewer rental in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars ($10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, 19__, and approved this ___ day of _____, 19__.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 19__.

_____
City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which may be, but do not have to be, incorporated in the Code of Ordinances. These ordinances include ordinances (1) establishing grades of streets or sidewalks, (2) vacating streets or alleys, (3) authorizing the issuance of bonds and (4) zoning ordinances.

(Code of Iowa, Sec. 380.8)

If such ordinances are to be included in the Code of Ordinances, the foregoing suggested form of ordinance amending the Code of Ordinances is appropriate; however, if such ordinances are not to be included in the Code of Ordinances, we suggest the following form of ordinance be used.

ORDINANCE NO. ___

AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO (2) RAILROAD ADDITION TO _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to _____, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the ___ day of _____, 19__, and approved this ___ day of _____, 19__.

_____
Mayor

ATTEST:

_____
City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 19__.

_____
City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORM

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of _____, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

DESCRIPTION OF PROPERTY

_____
_____
_____

The nearest public sewer line within _____ (____) feet of the above described property is located

_____
_____
_____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date Of Notice: _____

City Of _____, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)
_____
(Street Address)
_____, Iowa

You are hereby notified that the City Council of _____, Iowa, will meet on the ___ day of _____, 19__, at _____ o'clock _m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

DESCRIPTION OF PROPERTY

_____
_____
_____

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date Of Notice: _____

City Of _____, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of _____, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 19__, on _____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as
_____
_____
_____
_____

to the public sanitary sewer located
_____within
_____ (_____) days from service of notice upon said owner or agent; and,

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or his agent, _____
(Name of Owner or Agent)
is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon him; and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and

BE IT FURTHER RESOLVED, that in the event the owner, or agent, _____, fails to make such
(Name of Owner or Agent)
connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner
_____
(Owner's Name)
_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 19__.

_____
Mayor

ATTEST:

_____
City Clerk

STANDARDS FOR THE RESTORATION AND REHABILITATION OF HISTORIC STRUCTURES

1. Every reasonable effort should be made to provide a compatible use for building which will require minimum alteration to the building and its environment.

2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historic material or architectural features should be held to the minimum, consistent with the proposed use.

3. Deteriorated architectural features should be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications or original features, substantiated physical or pictorial evidence rather than on conjectural designs or the availability or different architectural features from other buildings.

4. Distinctive stylistic features or examples of skilled craftsmanship which characterize older structures should be treated with sensitivity.

5. Alterations to buildings and environments which have taken place in the course of time are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right, and this significance should be recognized and respected.

6. All buildings should be recognized as products of their own time. Alterations to create an appearance inconsistent with the actual character or the building should be discouraged.

7. Contemporary design for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the size, scale, color, material and character of the neighborhood, building or its environment.

8. Wherever possible, new additions or alterations to buildings should be undertaken in such a manner that if they were to be removed in the future the essential form and integrity of the original building would be unimpaired.

9. For a fuller explanation of these standards, refer to Checklist for the Application of the Standards for the Restoration and Rehabilitation of Historic Structures which follows.

CHECKLIST FOR THE APPLICATION OF THE STANDARDS FOR THE RESTORATION AND REHABILITATION OF HISTORIC STRUCTURES*

The following guidelines are listed as a series of construction practices. They are divided by basic building elements and into two groups – those practices recommendation and those not recommended.

DO:	DO NOT:
The Environment	
In new construction, retain distinctive features of the neighborhood's existing architecture, such as the distinguishing size, scale, mass color, materials and details, including roofs, porches and stairway, that give a neighborhood its special character.	Introduce new construction into the neighborhood that is incompatible with the character of the district's differences in size, scale, color and detailing.
Use plant materials, fencing, walkways and street lights, signs and benches that are compatible with the character of the neighborhood in size, scale, material and color, and the time period under consideration.	Introduce signs, street lighting, street furniture, new plant materials, fencing, walkways and paving materials which are out of scale or inappropriate to the neighborhood.
Retain existing landscape features such as parks, gardens, street lights, signs, benches, walkways, streets, alleys and building setbacks that have traditionally linked buildings to their environment.	Destroy the relationship of buildings and their environment by widening existing streets, changing paving materials, or by introducing poorly designed and inappropriately located new streets and parking lots or introducing new construction incompatible with the character of the neighborhood.

* These guidelines are adapted from *The U.S. Secretary of the Interior's Standards for Historic Preservation Projects*.

DO:	DO NOT:
Existing Buildings: Lots	
Inspect the lot carefully to locate and identify plants, trees, fencing, walkways, out buildings and other elements that might be an important part of the property's history and development.	
Retain plants, trees, fencing, walkways, and street lights, signs and benches that reflect the property's history and development.	Make changes to the appearance of the site by removing old plants, trees, fencing, walkways and street lights, signs and benches before evaluating their importance in the property's history and development.
Base decisions for the new work on actual knowledge of the past appearance of the property found in photographs, drawings, newspapers and tax records. If changes are made, they should be carefully evaluated in light of the past appearance of the site.	Give the site an appearance it never had.
Existing Buildings: Exterior Features	
Masonry buildings – retain original masonry and mortar, wherever possible, without the application of any surface treatment.	Apply waterproof or water repellent coatings or other treatments unless required to solve a specific technical problem that has been studied and identified. Coatings are frequently unnecessary, expensive and can accelerate deterioration of the masonry.
Duplicate old mortar in composition, color and textures.	Repoint with mortar of high portland cement content which can create a bond that is often stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.

DO:	DO NOT:
Duplicate old mortar in joint size, method of application and joint profile.	Repoint with mortar joints of a differing size or joint profile, texture or color.
Repair stucco with a stucco mixture duplicating the original as closely as possible in appearance and texture.	
Clean masonry only when necessary to halt deterioration and always with the gentlest method possible, such as low pressure water and soft, natural bristle brushes.	Sandblast brick or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration.
Clean masonry only when necessary to halt deterioration and always with the gentlest method possible, such as low pressure water and soft, natural bristle brushes.	Sandblast brick or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration.
	Use chemical cleaning products which could have an adverse chemical reaction with the masonry materials, i.e., acid on limestone or marble.
Repair or replace, where necessary, deteriorated material with new material that duplicates the old as closely as possible	Apply new material which is inappropriate or was unavailable when the building was constructed, such as artificial brick siding, artificial cast stone or brick veneer.
Replace missing architectural features, such as cornices, brackets, railings and shutters.	Remove architectural features, such as cornices, brackets, railings, shutters, window architraves and doorway pediments. These are usually as essential part of a building's character and appearance.
Retain the original or early color and texture of masonry surfaces wherever possible. Brick or stone surfaces may have been painted or whitewashed for practical and aesthetic reasons.	Indiscriminate removal of paint from masonry surfaces. This may be historically incorrect and may also subject the building to harmful damage.

DO:	DO NOT:

Frame Buildings:	
Retain original material whenever possible.	Remove architectural features such as siding, cornices, brackets, window architraves and doorway pediments. These are, in most cases, an essential part of a building's character and appearance.
Repair or replace, where necessary, deteriorated material with new material that duplicates the old as closely as possible.	Resurface frame buildings with new material which is inappropriate or was unavailable when the building was constructed, such as artificial stone, brick veneer, asbestos or asphalt shingles, plastic or aluminum siding. Such materials also can contribute to the deterioration of the structure from moisture and insect attack.
Roofs:	
Preserve the original roof shape.	Change the original roof shape or add features inappropriate to the essential character of the roof, such as oversized dormer windows or picture windows.
Retain the original roofing material, whenever possible.	Apply new roofing material that is inappropriate to the style and period of the building and neighborhood.
Replace deteriorated roof coverings with new material that matches the old in composition, size, shape, color and texture.	Replace deteriorated roof coverings with new materials which differ to such an extent from the old in composition, size, shape, color and texture that the appearance of the building is altered.
Preserve or replace, where necessary, all architectural features which give the roof its essential character, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting and weather vanes.	Strip the roof or roof lines of architectural features important to its character.

DO:	**DO NOT:**
Place television antennae and mechanical	Place television antennae or satellite

equipment, such as air conditioners, in an inconspicuous location.	dishes and mechanical equipment, such as air conditioners, where they can be seen from the street.
Windows and Doors:	
Retail existing window and door openings including window sash, glass, lintels, sills, architraves, shutters, door pediments, hoods, steps and all hardware.	Introduce new window and door openings into the principal elevations or enlarging or reducing window or door openings to fit new stock window sash or new stock door sizes.
	Alter the size of window panes or sash. Such changes destroy the scale and proportion of the building.
	Discard original doors and door hardware when they can be repaired and reused in place.
Respect the stylistic period or periods a building represents. If replacement is necessary, it should duplicate the material, design, and the hardware of the older window sash or door.	Inappropriate new window or door features such as aluminum storm and screen window combinations that require the removal of original windows and doors right-of-way the installation of plastic or metal strip awnings or fake shutters that disturb the character and appearance of the building.
Porches and Steps:	
Retain porches and steps which are appropriate to the building and its development. Porches or additions reflecting later architectural styles are often important to the building's historical integrity and whenever possible should be retained.	Remove or alter porches and steps which are appropriate to the building and its development and the style it represents.

DO:	DO NOT:
Repair or replace, where necessary, deteriorated architectural features of wood, iron, cast iron, terra-cotta, tile and brick.	Strip porches and steps of original material and architectural features, such as handrails, balusters, columns, brackets and roof decoration of wood, iron, cast iron, terra-cotta, tile and brick.
Repair or replace, where necessary, deteriorated material with new material that duplicates the old as closely as possible.	Apply new material which is inappropriate or was unavailable when the building was constructed, such as artificial cast stone, brick veneer, asbestos or asphalt shingles or plastic or aluminum siding.
	Enclose porches and steps in a manner that destroys their intended appearance.
Existing Buildings: Exterior Finishes	
Discover and retain original paint colors or repainting with colors based on the original to illustrate the distinctive character of the property	Repaint with colors that are not appropriate to the building and neighborhood.
Existing Buildings: Plan and Function	
Use a building for its intended purpose whenever possible.	
Find an adaptive use, when necessary, which is compatible with the plan, structure and appearance of the building.	Alter a building to accommodate an incompatible use requiring extensive alterations to the plan, materials and appearance of the building.
Retain the basic plan of a building, whenever possible.	Alter the basic plan of a building by demolishing principal walls, partitions and stairway.

DO:	DO NOT:
New Construction:	
Make new additions and new buildings compatible in scale, color and texture with the earlier building and the neighborhood.	Make incompatible new additions or new construction
Design new work to be compatible in materials, size, scale, color and texture with the earlier building and the neighborhood.	Design new work that is incompatible with the earlier building and the neighborhood in materials, size, scale and texture.
Use contemporary design compatible with the character and mood of the building or the neighborhood.	Imitate an earlier style or period of architecture in new construction, except in rare cases where a contemporary design would detract from the architectural unity of an ensemble or group. Especially avoid imitating an earlier style of architecture in new construction that has a completely contemporary function, such as a drive-in bank or garage.
Safety and Code Requirements:	
Comply with Code requirements in such a manner that the essential character of a building is preserved intact.	
Investigate variances for historic properties under local codes.	
Install adequate fire prevention equipment in a manner that does minimal damage to the appearance or fabric of a property.	
Provide access for persons with disabilities without damaging the essential character of the property.	

STANDARDS FOR SIGNAGE DESIGN AND DISPLAY

I. GENERAL

These standards cover all exterior signs and all interior signs within six (6) inches of the window.

Signs are intended to communicate function or use of an establishment. Businesses are encouraged to use signs and symbols reminiscent of the turn of the century.

Approval by the West Branch Preservation Commission of design plans and specifications for signs is prerequisite to obtaining a sign permit.

The City strongly recommends that applicants consult with the Commission prior to applying for a permit.

SAFETY AND MAINTENANCE. All signs shall be so designed and located as to pose no danger to life or property and shall be well maintained at all times. Signs shall not be arranged to interfere with traffic by causing glare or to block reasonable sight lines at intersections. Neither the color nor location of signs should cause confusion or interfere with traffic control devices.

ILLUMINATION. Signs with open light bulbs or with flashing, blinking, or rotating lights are not permitted. Externally illuminated signs are permitted so long as they do not cast glare onto streets or adjacent properties. No external signs with internal lighting or exposed neon or similar tube-type lighting are allowed. Each business establishment may display not more than two exposed neon signs, totaling no more than nine square feet, as secondary interior signs.

II. PRINCIPAL SIGNS

Principal signs are permanently affixed signs identifying the name of the establishment. The name or trademark of the product or service offered may be included in the principal sign, but it is recommended that it not overshadow, in size or color, the name of the establishment.

TYPES AND SIZES OF PRINCIPAL SIGNS.

APPLIED SIGNS. Signs attached flat against the building facade or painted on the facade or window Shall not project higher than the eave line or parapet wall of the building or project more than six (6) inches from the building. Applied signs include signs painted directly on the building or window. The size of applied signs for businesses whose primary building facade has less than

seventy-five (75) feet of principal frontage shall not exceed one square foot of surface area for each linear foot of building frontage up to a maximum of twenty-five (25) square feet. Size of applied signs for businesses whose primary building façade has seventy-five (75) feet or more of principal frontage shall not exceed fifty (50) square feet. The area of a sign containing individual letters without a frame or outline shall be calculated on the basis of a regular geometric form enclosing the lettering.

PROJECTING SIGNS. Signs projecting more than six (6) inches from a building wall shall not project higher than the eave line or parapet wall of the building. Roof signs shall not be permitted. The size of projecting signs shall be limited to fifteen (15) square feet in area, shall not extend over a public right-of-way more than one-half (½) the distance between the property line and the curb line, or four (4) feet, whichever is less, and shall provide at least seven and one-half (7½) feet of clearance above the right- of-way. Size shall be measured by the sign's largest dimensions as if enclosed within a square, rectangle, or circle.

AWNINGS. Signs shall be applied only to the valance section of an awning. Signs shall not occupy more than three-quarters of the height of an awning valance, or six (6) inches, whichever is less.

FREE-STANDING FIXED-POST SIGNS. Free-standing fixed-post signs shall be permitted in areas of open space between the sidewalk and the principal frontage. Sign posts shall be no taller than twelve (12) feet. Each sign shall be no larger than twelve (12) square feet. If more than one business occupies the building and each chooses to use a single sign, they shall be attached to the same post(s) and the total sign area shall not exceed twelve (12) square feet.

FREE-STANDING ELEVATED SIGNS. Free-standing elevated signs shall be permitted for buildings with 800 or more square feet of open space on a public right-of-way or parking lot. The bottom of a free-standing elevated sign shall be a minimum of ten (10) feet above ground level, and the top shall be no more than twenty-two (22) feet above ground level. No free-standing elevated sign shall be permitted which is closer than sixty (60) feet to any other free-standing elevated sign on the same side of the public right of way. The permanent area of the free-standing elevated sign shall not exceed thirty (30) square feet. No signs containing internal lighting shall be allowed. Illumination is prescribed pursuant to paragraph one (I) above.

CHANGE-PANEL SIGNS. Change-panel signs used to display current prices of items sold shall be placed and displayed as follows:

a. One change-panel sign shall be allowed per establishment. The sign shall consist of no more than three (3) panels.

b. The maximum size of each panel shall be nine (9) square feet.

NUMBER AND LOCATION OF PRINCIPAL SIGNS.

Each building shall have only one primary building facade, normally an exposed wall fronting on a public right-of-way or parking lot.

A business shall erect no more than two signs, each of which must be of a different permissible type, on or in front of its primary building facade. A business with additional exposed walls on a public right-of-way or a parking lot shall erect no more than one sign, which must be an applied sign, on each of its additional exposed walls.

If more than one business occupies a single store front, there shall be no more than one sign per business. The total of all applied signs together shall not exceed twenty-five (25) square feet for buildings with less than seventy-five (75) feet of frontage or fifty (50) square feet for buildings with seventy-five (75) feet or more of frontage.

A business occupying a floor above the ground floor shall use only an applied window sign or, if it has a separate entrance at the ground floor, an applied sign or a projecting sign at its ground floor door. Such signs must meet all other requirements of these standards.

Only applied signs shall be permitted in the Heritage Square area, including South Downey Street and the intersections of South Downey with Wetherell Street and Main Street.

III. SECONDARY SIGNS - MENUS, SPECIALS, HOURS, ETC.

MOVABLE FREE-STANDING SIGNS AND SANDWICH BOARDS. Applications for movable free-standing signs shall be made to the West Branch Preservation Commission. No more than one such sign shall be permitted per building. Such a sign shall not exceed six (6) square feet in area and shall be placed so that it does not interfere with pedestrian or vehicular traffic. Movable signs shall be displayed only during daylight hours and must be stabilized by a safe means of anchoring or weighting.

INCIDENTAL INFORMATION SIGNS. Signs providing additional and incidental information about a business (such as business hours, whether the business is open or closed, which credit cards are accepted, or listings of menus, specials, and similar information) shall not exceed twelve (12) square feet in total and shall not be any of the types of signs prohibited in Section six (VI),

below. Signs meeting these requirements need not be approved in advance by the Commission and do not require a permit.

IV. TEMPORARY SIGNS

The following signs may be erected without a permit if they meet the conditions stated below:

DEVELOPMENT SIGNS. One (1) temporary sign not to exceed twenty (20) square feet in area may be affixed to each lot or parcel of property to designate future use of such property by the business. Continued use of such signs shall be subject to review by the West Branch Preservation Commission every three (3) months following initial installation.

SALE OR RENT SIGNS. Signs advertising the premises where the sign appears for lease or sale shall be limited to one (1) such sign not to exceed sixteen (16) square feet in area. Such signs shall be removed from the premises within five (5) days subsequent to the leasing or sale of such premises.

OTHER TEMPORARY SIGNS. Announcement signs shall be permitted to indicate the names of community events or events to be conducted on the premises and of persons associated with those events (including contractors' signs on construction sites). Such signs, which shall not exceed sixteen (16) square feet in area, shall be installed no more than three weeks before the event and shall be removed from the premises within five (5) days following the conclusion of the event.

PENNANTS, BANNERS, AND STREAMERS. Such devices shall be up no longer than three (3) weeks prior to an event and shall be removed within five (5) days following the event. There shall be no restriction on the proper display of an American or Iowa flag on a flagpole.

V. INFORMATIONAL AND REGULATORY SIGNS

The following types of signs, displayed for the direction, safety, convenience, or information of the public, may be erected without a permit:

Signs required to be maintained or posted by law or other regulation. Examples include traffic or similar regulatory signs.

Utility signs not over two (2) square feet in area identifying parking area entrances and exits, off-street loading areas, and the like.

Memorial plaques, cornerstones, historical markers, and the like.

Name plates or address signs.

Bulletin boards, not to exceed fifteen (15) square feet in area, for schools, churches, clubs, parks, playgrounds, and other community facilities.

Signs identifying apartment buildings, not to exceed eight (8) square feet in area, indicating the name, address, and management of apartment buildings.

Signs and decorations for City-sponsored activities and events.

VI. PROHIBITED SIGNS

The following types of signs and display material are prohibited.

Temporary signs attached to store windows after the particular sale or event for which intended.

Blinking, flashing, animated, beacon, and moving signs or devices, except when approved by the Commission as temporary signs for approved openings, sales, and other special events.

Signs that advertise a business, service, or product not situated on the premises.

Signs using reflecting, fluorescent, “neon colors” or other garish paint or colors.

Signs applied to the main sections of an awning.

EXAMPLE OF PROHIBITED SIGNS

REQUEST FORM

PROPERTY ADDRESS: _____

This is to request that the above described property be included in the West Branch Preservation Signage District. I understand that inclusion in this district involves meeting the standards for signs set forth in the West Branch Preservation and Design Ordinances.

_____
Property Owner or Authorized Person

_____
Date

SIGN PERMIT APPLICATION

COMMISSION:
RECEIVED _____
REVIEWED _____
NOTIFIED _____

BUILDING OFFICIAL:
DATE APPROVED _____
PERMIT NUMBER _____
DATE ISSUED _____

BUSINESS _____
(full business name)
_____
(street address of business)

APPLICANT _____
(name)
_____
(permanent address)

PROPERTY OWNER _____
(name)
_____
(permanent address)

Intended date of installation _____
Linear foot of building frontage _____

TYPE OF SIGN(S): _____ applied to façade
_____ projecting
_____ fixed post
_____ movable (sandwich board)

Will sign be illuminated? _____ If so, describe means of illumination:
_____
_____
_____

Attach detailed description and sketch of proposed sign.
INCLUDE:

- EXACT MEASUREMENTS
- LOCATION ON BUILDING OR RELATIONSHIP TO BUILDING
- LETTERING STYLE
- COLOR SAMPLES
- MEANS OF SECURING MOVABLE SIGNS

The Preservation Commission would like to work with you in the development of signs that compliment your property and the Historic Downtown District. If you with to consult with the Commission before finalizing your design, please contact the Chairperson for the schedule of meetings.

COMMISSION RECOMMENDATION: _____
_____
_____
_____

WEST BRANCH HISTORIC DISTRICT

[Insert Map]

[Insert Map]